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BEFORE THE ARIZONA PUBLIC REGULATION COMMISSION

WILLIAM A. MUNDELL
Commissioner
JAMES M. IRVIN
Commissioner
MARC SPITZER
Commissioner

Arizona Corporation Commission
DOCKETED

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ARIZONA CORPORATION COMMISSION
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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
STATEMENT OF GENERALLY
AVAILABLE TERMS AND
CONDITIONS

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IN THE MATTER OF U S WEST
COMMUNICATIONS, INC.'S
COMPLIANCE WITH § 271 OF THE
TELECOMMUNICATIONS ACT OF
1996

) **DOCKET NO. T-00000A-97-0238**
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AT&T'S OPPOSITION TO QWEST'S MOTION TO ADMIT SGAT CHANGES

AT&T Communications of the Mountain States, Inc. and TCG Phoenix
("AT&T") submit this Opposition to Qwest's Motion to Admit Statement of Generally
Available Terms ("SGAT") Changes.

In its filing, Qwest purports to be submitting revised language for its Arizona
SGAT that reflects language upon which Qwest and participating CLECs have agreed
upon in Section 271 workshops in other states relating to checklist items 3, 7, 8, 9, 10, 12,
and 13 (47 U.S.C. § 271(c)(2)(B)(iii), (vii), (viii), (x), (xii), and (xiii)). As described
herein and as highlighted in the attached redlined version of the Arizona SGAT
(Attachment A), AT&T does not believe that the attached SGAT properly reflects

language that Qwest and participating CLECs have agreed to in other non-OSS workshops in Section 271 workshops in other states.

AT&T does not specifically comment on the proposed revisions on any revisions to Section 7, the interconnection section of the SGAT. The workshops on interconnection are still open in other states and it is premature to engage in a final review of the SGAT for the purpose of ensuring that all agreed-to provisions from other state Section 271 workshops have been ported into the Arizona SGAT. While AT&T has no objection to allowing the revisions proposed by Qwest to the interconnection section of the SGAT to go into effect, AT&T reserves the right to review and comment on the current state of Qwest's SGAT for these section once the workshops on these sections are completed.

A. Section 9.13 – Access to Signaling

Qwest has added language to section 9.13, 9.13.3.2.2, 9.13.3.2.3 and 9.13.3.2.4. AT&T does not believe these revisions have been discussed or agreed to in any other Section 271 workshop on this checklist item.

B. Section 10.5 - Directory Assistance

Qwest has added in Section 10.5.2.12, a forecasting section that was never discussed or agreed to in any other Section 271 workshop on this checklist item.

C. Section 10.7 - Operator Services

Qwest has added new language for Section 10.7.2.8 and a new forecasting section in Section 10.7.2.14. These revisions were never discussed or agreed to in any other Section 271 workshop on this checklist item.

D. Section 10.8 – Access to Poles, Ducts, Conduits and Rights of Way.

In the attached redline version of the Arizona SGAT (Attachment A), AT&T has added language that it believes has been agreed to by all parties in Section 271 proceedings in other states. In addition, AT&T attaches a redline version of Section 10.8 that was submitted by Qwest as an attachment to the Rebuttal Testimony of Thomas R. Freeberg in the Seven (then Six) State Collaborative Section 271 Workshops (the “Multistate Workshop”) on November 3, 2001 (Attachment B). This is the last filing by Qwest of its proposed SGAT language on Section 10.8. A comparison of Attachment A and B provides support for AT&T’s position.

Notably, many of the provisions omitted by Qwest in the Arizona revisions relate to an agreement that is designed to give the CLECs access to the ROW owned or controlled by Qwest. This Access Agreement is specifically included in the Multistate SGAT filed by Qwest with its rebuttal testimony. Indeed, Qwest, AT&T and others conceptually agreed to the use of the Access Agreement (which is included in Exhibit D to the SGAT and a copy is attached hereto as Attachment C) last August during the Colorado workshop on Checklist Item 3. During the course of the Colorado workshop, it was agreed that the Access Agreement would be used in lieu of the Quitclaim that is now appended to the Arizona SGAT of record that was filed on July 21, 2000. Thus, reference to the Access Agreement should be incorporated into the Arizona SGAT in the manner reflected in Attachment A. There remain, however, two disputed issues with respect to the Access Agreement.

During the workshops on checklist item 10, AT&T sought to obtain access to Qwest’s ROW agreements. Section 271(c)(2)(B)(iii) requires BOCs to provide

"nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the [BOC] at just and reasonable rates in accordance with the requirements of section 224."¹ Thus, access to these agreements is vital to ascertaining what ROW Qwest owns or controls and the terms and conditions upon which Qwest has been afforded access. Rather than freely making these agreements available to CLECs, Qwest has proposed terms and conditions in the Access Agreement that require CLECs to go through the unnecessary and burdensome effort of gaining 1) the landowner's consent to such access before access to the agreements will be afforded, and 2) the landowner's agreement to provide notice and opportunity to cure before it will afford CLECs access to ROW agreements.²

First, Qwest proposes that it will provide a copy of any ROW agreement in its possession that has not been recorded only after a CLEC has obtained the consent of the subject property owner to the conveyance of the ROW access, not merely consent to disclosure of the ROW agreement.

This consent requirement is not required by the law and is inconsistent with sound public policy. Further, because such consent requirements are apparently not required of Qwest itself, or its affiliates, Qwest's consent proposals are discriminatory in violation of both state and federal law. The consent requirement Qwest seeks to impose would create unreasonable costs and impose significant delays on CLEC access to ROW and

¹ *BellSouth Second Louisiana Order*, ¶ 171.

² Qwest also proposed that the CLEC must record whatever interest they obtain in Qwest's MDUs. AT&T objected to the legality and onerous nature of this requirement. Qwest has now withdrawn this requirement.

provisioning of service using such ROW, which would constitute a significant barrier to offering the tenants or other customers a competitive alternative.

In other workshops, Qwest has asserted as its sole basis for this requirement that there is some purported "expectation" of the landowner that these "dealings are private." Qwest has never presented any evidence of such an expectation. To the contrary, many, if not most, existing ROW agreements (such as the Agreement for New Multi-Tenant Residential Properties) and easements do not explicitly require consent to the disclosure of the terms of the agreement to third parties, or do not explicitly require written and acknowledged prior consent. Nor do those agreements contain nondisclosure requirements. AT&T agrees that where there is an explicit nondisclosure or consent provision that applies, consent may be required. Absent such a provision, the landowner can have no legal expectation of nondisclosure. That is basic contract law. Essentially, Qwest's proposal creates a presumption that all such ROW agreements are confidential and subject to a prohibition (which is presumably absolute) against disclosure. Such a presumption is inappropriate and imposes a needless burden on CLECs to obtain disclosure.

Second, Qwest has included in the Access Agreement a provision that requires CLECs to obtain the agreement of a property owner to provide notice and an opportunity to cure supposed "defaults" of a CLEC transfer of any rights of access to a ROW. Qwest argues that these landowner agreements are essential to protect it from a panoply of as yet unrealized risks. These new requirements have no legal basis, are unnecessary and create extraordinarily time- and resource-intensive burdens on landowners as well as CLECs who attempt to gain nondiscriminatory access to rights of way as provided under the Act.

Again, the law does not mandate that CLECs obtain an agreement from the landowner to provide Qwest with notice and opportunity to cure before Qwest must provide access. The Act mandates that Qwest provide access to that which it owns or controls. Neither the Act nor the FCC's rules and orders impose any requirement for a CLEC to obtain the agreement of a landowner to provide notice and an opportunity to cure to Qwest or further agreement of a landowner for access to rights of way.³ Indeed, the law requires that Qwest must establish a nondiscriminatory process to expedite access to ROWs: "Procedures for an attachment application should ensure expeditious processing so that "no [BOC] can use its control of the enumerated facilities and property to impede, inadvertently or otherwise, the installation and maintenance of telecommunications . . . equipment by those seeking to compete in those fields."⁴ Moreover, Qwest's ROW agreements clearly contemplate that Qwest may assign ROW access without restraint.

Where Qwest demonstrates that certain ROW agreements expressly provide for obtaining the agreement of landowners to provide notice and an opportunity to cure before permitting "assignment" or other transfer, AT&T would not object to inclusion in the SGAT of certain limited and reasonable provisions designed to obtain and expedite such landowner agreement wherever necessary.⁵ However, such provisions must not be burdensome and must ensure that Qwest does not use its incumbent status to impose such

³ 47 U.S.C. § 251(b)(4); *Local Competition Order*, ¶¶ 1119 – 1158.

⁴ *Bell South Second Louisiana Order*, ¶ 176 (citing *Local Competition Order*, 11 FCC Rcd at 16067).

⁵ AT&T reserves its rights to challenge whether access mandated by the Act triggers such consent requirement and reserves AT&T's rights to argue that federal law pre-empts such requirements.

landowner agreement requirements on landowners.

Next, Section 10.8.1.3.1 appears to have been omitted from Qwest's SGAT revision.

Qwest has also omitted the last sentence of Section 10.8.2.10.2. This has not been discussed or agreed to in any other state workshop.

Section 10.8.3.1 has a number of provisions that have been omitted. The language that should be added in this Section is highlighted in Attachment A.

Section 10.8.4.1.3 "Inquiry Review - ROW" appears to have been omitted from Qwest's SGAT revisions.

In addition, Section 10.8.4.2 does not appear to be the current version of this section. In reviewing SGATs from other states it is not clear whether this section is omitted in its entirety or whether it is to be replaced by a section entitled "Field Verification - Poles, Duct/Innerducts and Access Agreement Preparation (ROW)." AT&T has inserted this section in Attachment A, however, some SGATs from other states include this section, others do not.

Respectfully submitted this 26th day of February, 2001.

**AT&T COMMUNICATIONS OF THE
MOUNTAIN STATES, INC.**

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ATTACHMENT: SGAT COMPARISON**Reciprocal Compensation****7.3.1 Interconnection Facility Options**

The Reciprocal Compensation Provisions of this Agreement shall apply to the exchange of Exchange Service (EAS/Local) traffic between CLEC's network and Qwest's network. Where either Party acts as an IntraLATA Toll provider, each Party shall bill the other ~~symmetrical rates using Qwest's Tariffed Switched Access~~ the appropriate charges pursuant to its respective Tariff or rates as a surrogate Price Lists. Where either Party interconnects and delivers traffic to the other from third parties, each Party shall bill such third parties the appropriate charges pursuant to its respective Tariffs Price Lists or contractual offerings for such third party terminations. Absent a separately negotiated agreement to the contrary, the Parties will directly exchange traffic between their respective networks without the use of third party transit providers.

7.3.1.1 Entrance Facilities

7.3.1.1.1 Recurring and nonrecurring rates for Entrance Facilities are specified in Exhibit A and will apply for those DS1 or DS3 facilities dedicated to use by LIS.

7.3.1.1.2 If CLEC chooses to use an existing facility purchased as Private Line Transport Service from the state or FCC Access Tariffs, the rates from those Tariffs will apply.

7.3.1.1.3 If the Parties elect to establish LIS two-way trunks, for reciprocal exchange of Exchange Service (EAS/Local) traffic, the cost of the LIS two-way facilities shall be shared among the Parties by reducing the LIS two-way EF rate element charges as follows:

7.3.1.1.3.1 The provider of the LIS two-way Entrance Facility (EF) will initially share the cost of the LIS two-way EF by assuming an initial relative use factor of ~~50%~~ fifty percent (50%) for a minimum of one quarter. The nominal charge to the other Party for the use of the Entrance Facility (EF), as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party ~~party~~ will be according to this initial relative use factor for a minimum of one quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor, based upon actual minutes of use data for ~~non-Internet Related Traffic~~ non-Internet Related traffic to substantiate a change in that factor. If either Party demonstrates with ~~non-Internet related~~ Related data that actual minutes of use during the first quarter justify a relative use factor other than ~~50%~~ fifty percent (50%), the Parties will retroactively ~~true-up~~ true up first quarter charges. Once negotiation of a new factor is finalized, the bill reductions and payments will apply going forward, for a minimum of one quarter. By agreeing to this interim

~~solution, the parties do~~Qwest does not waive theirits position that Internet Related Traffic or traffic delivered to Enhanced Service Providers is interstate in nature.

7.3.1.2 Collocation

7.3.1.2.1 When Collocation is used to facilitate Interconnection, the EICT rate elements, as specified in Exhibit A, will apply per DS1 and DS3. For an interconnection trunk path through collocated equipment, EICT provides that portion of the physical facility between Collocated equipment and Qwest's equipment located elsewhere within the Qwest building. Collocation and Direct Connection is described in Section 8 of this Agreement. Interconnection Tie Pairs (ITP) are associated with unbundled element provisioning, and not LIS. ITP is described more fully in Section 9 of this Agreement.

7.3.1.2.2 The provider of the Collocation EICT will share the cost of the LIS two-way EICT by assuming a relative use factor of fifty percent (50%) for a minimum of one quarter. The nominal charge to the other Party for the use of the EICT, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other party will be according to this initial relative use factor for a minimum of one quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor, based upon actual minutes of use data for non-Internet Related traffic to substantiate a change in that factor. If either Party demonstrates with non-Internet Related data that actual minutes of use during the first quarter justify a relative use factor other than fifty percent (50%), the Parties will retroactively true up first quarter charges. Once negotiation of a new factor is finalized, the bill reductions and payments will apply going forward, for a minimum of one quarter. By agreeing to this interim solution, Qwest does not waive its position that Internet Related Traffic or traffic delivered to Enhanced Service Providers is interstate in nature.

7.3.2 Direct Trunked Transport

7.3.2.1 ~~Either Party may elect to provision one-way trunks to the other Party's end office for the termination of traffic.~~ 7.3.2.2 ~~Either Party may elect to purchase Direct Trunked Transport from the other Party.~~

7.3.2.1.1 Direct Trunked Transport (DTT) is available between the Serving Wire Center of the POI and the terminating Party's tandem or end office switches. The applicable rates are described in Exhibit A. DTT facilities are provided as dedicated DS3 or DS1 DS3, DS1 or DS0 facilities.

7.3.2.1.2 When DTT is provided to a local or access tandem for Exchange Service (EAS/local traffic), or to an access tandem for Exchange Access (IntraLATA Toll), or Jointly Provided Switched Access traffic, the applicable DTT rate elements apply between the Serving Wire

Center and the tandem. Additional rate elements for delivery of traffic to the terminating end office are Tandem Switching and Tandem Transmission. These rates are described below.

7.3.2.1.3 Mileage shall be measured for DTT based on V&H coordinates between the Serving Wire Center and the local/access tandem or end office.

7.3.2.1.4 Fixed Charges per DS0, DS1 or DS3 and per mile charges are defined for DTT in Exhibit A of this Agreement.

7.3.2.2 If the Parties elect to establish LIS two-way DTT trunks, for reciprocal exchange of Exchange Service (EAS/Local) traffic, the cost of the LIS two-way DTT facilities shall be shared among the Parties by reducing the LIS two-way DTT rate element charges as follows:

(a)7.3.2.2.1 The provider of the LIS two-way DTT facility will initially share the cost of the LIS two-way DTT facility by assuming an initial relative use factor of fifty percent (50%) for a minimum of one quarter. The nominal charge to the other Party for the use of the DTT facility, as described in Exhibit A, shall be reduced by this initial relative use factor. Payments by the other Party will be according to this initial relative use factor for a minimum of one quarter. The initial relative use factor will continue for both bill reduction and payments until the Parties agree to a new factor, based upon actual minutes of use data for non Internet related ~~Traffic~~traffic to substantiate a change in that factor. If either Party demonstrates with ~~non-Internet related~~non Internet Related data that actual minutes of use during the first quarter justify a relative use factor other than fifty percent (50%), the Parties will retroactively ~~true-up~~true up first quarter charges. Once negotiation of new factor is finalized, the bill reductions and payments will apply going forward, for a minimum of one quarter. By agreeing to this interim solution, ~~the parties do~~Qwest does not waive their its position that ~~traffic delivered to Enhanced Service Providers~~Internet related traffic is interstate in nature.

7.3.2.3 Multiplexing options (DS1/DS3 MUX or DS0/DS1 MUX) are available at rates described in Exhibit A.

7.3.3 Trunk Nonrecurring charges

7.3.3.1 Installation nonrecurring charges may be assessed by the provider for each LIS trunk ordered. Qwest rates are specified in Exhibit A.

7.3.3.2 Nonrecurring charges for rearrangement may be assessed by the provider for each LIS trunk rearrangement ordered, at one-half the rates specified in Exhibit A.

7.3.4 Exchange Service (EAS/Local) Traffic

7.3.4.1 End Office Call Termination

7.3.4.1.1 The per minute of use call termination rates as described in Exhibit A of this Agreement will apply reciprocally for Exchange Service (EAS/Local) traffic terminated at a Qwest or CLEC end office.

7.3.4.1.2 For purposes of call termination, the CLEC switch(es) shall be treated as end office switch(es), unless CLEC's switch(es) meet the definition of a Tandem Switch in this Agreement at Section 4.11.2

7.3.4.1.3 As set forth above, the Parties agree that reciprocal compensation only applies to EAS/Local Traffic and further agree that the FCC has determined that Internet related traffic Related Traffic originated by either Party (the "Originating Party") and delivered to the other Party, (the "Delivering Party") is interstate in nature. Consequently, the Delivering Party must identify which, if any, of this traffic is EAS/Local Traffic. The Originating Party will only pay reciprocal compensation for the traffic the Delivering Party has substantiated to be EAS/Local Traffic. In the absence of such substantiation, such traffic shall be presumed to be interstate.

7.3.4.1.4 Neither Party shall be responsible to the other for call termination charges associated with third party traffic that transits such Party's network.

7.3.4.2 Tandem Switched Transport

7.3.4.2.1 For traffic delivered through a Qwest or CLEC local tandem switch (as defined in this Agreement), the tandem switching rate and the tandem transmission rate in Exhibit A shall apply per minute in addition to the end office call termination rate described above, so long as the terminating Party switches the traffic at both its tandem switch and separate end office switch. However, if CLEC or Qwest only switches the traffic once and this switch meets the definition of a tandem switch in Section 4.11.2, the Definitions Section, then only the tandem switching rate shall apply.

7.3.4.2.2 Mileage shall be measured for the tandem transmission rate elements based on V&H coordinates between the local tandem and terminating end office.

7.3.4.2.3 When CLECa Party terminates traffic to a Qwest remote office, switch, tandem transmission rates will be applied for the V & H mileage between the Qwest host office and the Qwest remote office, host switch and the remote switch when the identity of each is filed in the NECA 4 Tariff.

7.3.4.2.4 When Qwest receives a unqueried call from CLEC to a number that has been ported to another Qwest Central Office within the EAS/Local calling area, and Qwest performs the query, mileage sensitive tandem transmission rates will apply which reflect the distance to the end

office to which the call has been ported.

7.3.4.2.4.1 To determine the responsible originating carrier of unqueried calls for purposes of identification of the carrier to billed LNP query charges, Qwest and CLEC are required to utilize the Number Portability Administration Center (NPAC) database, or another database that is supported by OBF.

7.3.5 Miscellaneous Charges

7.3.5.1 Cancellation charges will apply to cancelled LIS trunk orders, based upon the critical dates, terms and conditions described in ~~Access Service Tariff~~ in accordance with the Arizona Access Service Tariff Section 5.2.3, and the Trunk Nonrecurring Charges referenced in this Agreement.

7.3.5.2 Expedites for LIS trunk orders are allowed only on an exception basis with Qwest executive approval within the same timeframes as Qwest provides provided for other designed services. When expedites are approved, expedite charges will apply to LIS trunk orders based on rates, terms and conditions described in Exhibit A.

7.3.5.3 Construction charges are described in Exhibit A of this Agreement.

7.3.6 ~~Exchange Access (IntraLATA Toll) Traffic. Applicable Qwest Switched Access Tariff rates apply to IntraLATA toll traffic routed to an access tandem, or directly to an end office. Reserved for Future Use.~~

7.3.7 Transit Traffic.

The following rates will apply:

7.3.7.1 ~~Local Transit:~~ The Transit:: the applicable LIS tandem switching and tandem transmission rates at the assumed mileage contained in Exhibit A of this Agreement, apply to the originating Party. ~~originating Party. The assumed mileage will be modified to reflect actual mileage, where the mileage can be measured, based on negotiations between the Parties.~~

7.3.7.2 IntraLATA Toll Transit: The applicable Qwest Tariffed Switched Access tandem switching and tandem transmission rates apply to the originating CLEC or LEC. The rates assumed mileage contained in Exhibit A of this Agreement shall apply.

7.3.7.3. Jointly Provided Switched Access: The applicable Switched Access rates will be billed by the Parties to the IXC based on MECAB guidelines and each Party's respective FCC and state access Tariffs.

7.3.8 Signaling Parameters

Qwest and CLEC are required to provide each other the proper signaling information (e.g., originating call party number and destination call party number, etc.) to enable each Party to issue bills in a complete and timely fashion. All CCS signaling parameters will be provided including Calling Party Number (CPN), originating line information (OLI), calling party category, charge number, etc. All privacy indicators will be honored. If ~~either Party~~ CLEC fails to provide CPN or ~~reasonable alternative~~ (e.g., ~~charge-to-number~~), (valid originating information), and cannot substantiate technical restrictions (i.e., MF signaling) such traffic will be billed as Switched Access. Traffic sent to CLEC without CPN (valid originating information) will be handled in the following manner. ~~Transiting~~ The transit provider will be responsible for only its portion of this traffic, which will not exceed more than 5% ~~(5%)~~ of the total Exchange Service (EAS/Local) and Exchange Access (IntraLATA Toll) traffic delivered to the other ~~Party~~ party. Qwest will provide to CLEC, upon request, information to demonstrate that Qwest's portion of ~~no-CPN~~ traffic does not exceed five percent (5%) of the total traffic delivered.

7.3.9 To the extent a Party combines Exchange Service (EAS/Local), Exchange Access (IntraLATA Toll carried solely by Local Exchange Carriers), and Jointly Provided Switched Access (InterLATA and IntraLATA calls exchanged with a third-party IXC) traffic on a single LIS trunk group, the originating Party, at the terminating party's request will declare quarterly PLU(s). Such PLU's will be verifiable with either call summary records utilizing Calling Party Number information for jurisdictionalization or call detail samples. The terminating Party should apportion per minute of use (MOU) charges appropriately.

9.13 Access to Signaling

9.13.1 Description

9.13.1.1 Qwest will provide CLEC with non-discriminatory access to signaling networks, including signaling links and Signaling Transfer Points (STP), call-related databases and service management systems (SMS) on an unbundled basis. The individual call-related databases and associated SMS are addressed later in ~~(STP)~~ this Section of the Agreement. Access to Qwest's signaling network provides for the exchange of signaling information between Qwest and CLEC necessary to exchange traffic and ~~access~~ call- call-related databases. Signaling networks enable CLEC the ability to send SS7 messages between its switches and Qwest's switches, and between CLEC's switches and those third party networks with which Qwest's signaling network is connected. CLEC may access Qwest's signaling network from a CLEC switch via unbundled signaling and unbundled signaling transport elements between CLEC's switch and Qwest STPs. CLEC may access Qwest's signaling network from each of its switches via a signaling link pair between its switch and the Qwest STPs. CLEC may make such connection in the same manner as Qwest connects one of its own switches to STPs. Access to Qwest's signaling network for purposes of interconnection and the exchange of traffic is addressed earlier in this Agreement. The Common Channel Signaling used by the ~~parties~~ Parties shall be Signaling System 7.

9.13.1.2 Common Channel Signaling Access Capability/Signaling System 7 (CCSAC/SS7) provides multiple pieces of signaling information via the SS7 network. This signaling information includes, but is not limited to, specific information regarding calls made on associated Feature Group D trunks and/or LIS trunks, Line Information Database (LIDB) data, Local Number Portability (LNP), Custom Local Area Signaling

Services (CLASS), 8XX set up information, Call Set Up information and transient messages.

9.13.1.3 Optional Features of CCSAC/SS7 are dependent on specific CLEC design requirements as well as the existence of adequate transport facilities. Transport facilities must be in place to accommodate Call Set Up of related Feature Group D and/or LIS messages, transient messages, and other ancillary services (e.g., LIDB data and 8XX set up information).

9.13.2 -Terms and Conditions

9.13.2.1 All elements of the unbundled CCSAC/SS7 arrangement will be developed on an individual case basis based on CLEC's design requirements. All of CLEC's unbundled design elements are subject to facility requirements identified below.

9.13.2.2 At a minimum, transport facilities must exist from CLEC's Point of Presence or Signaling Point of Interface (SPOI) to the identified Qwest STP location. Unbundled transport facilities to accommodate CCSAC/SS7 signaling may be developed using unbundled network elements (UNEs) as defined in this Section. ~~Section 9.~~

9.13.2.3 CLEC's CCSAC/SS7 design requirements will include, but are not limited to:

9.13.2.3.1 STP Port - This element is the point of termination to the signal switching capabilities of the STP. Access to a Qwest STP Port is required at a DS0 level.

9.13.2.3.2 Specific Point Code detail including the identification of CLEC's Originating, Destination and Signaling Options (i.e., ISDN User Part [ISUP] or Transaction Capabilities Application Part [TCAP] requirements).

9.13.2.3.3 All signaling routing requirements will be identified in CLEC's design. CLEC will provide industry standard codes identifying Qwest end offices, tandems, sub-tending end offices and STPs that will be included in the designed unbundled signaling arrangement.

9.13.2.4 The CCSAC/SS7 unbundled arrangement must meet the following requirements:

9.13.2.4.1 Both Qwest and CLEC are obligated to follow existing industry standards as described in Bellcore documents including but not limited to GR-905 CORE, GR-954-CORE, GR-394-CORE and Qwest Technical Publication 77342.

9.13.2.4.2 CLEC's switch or network SS7 node must meet industry and Qwest certification standards.

9.13.2.4.3 Unbundled transport facilities as identified in this Section ~~9~~ of ~~this~~ the Agreement must be provisioned at a minimum DS1 capacity at CLEC's Point of Presence or SPOI. This facility must be exclusively used for the transmission of network control signaling data.

9.13.2.4.4 Calling Party Number (CPN), or a reasonable alternative (i.e., charge number) will be delivered by CLEC each Party to the other, Qwest in accordance with FCC requirements, when received from another carrier or from the telephone equipment of the end user.

9.13.2.4.5 Carrier Identification Parameter (CIP) will be delivered by CLEC to Qwest in accordance with industry standards, where technically feasible.

9.13.2.4.6 Provisions relating to call related databases (i.e., 8XX, LIDB, Advanced Intelligent Network (AIN), etc.) are contained in other Sections of this Agreement. For example, LNP is described in Section 10.2, AIN in Section 9.14, LIDB in Section 9.15, 8XX in Section 9.16, and ICNAM in Section 9.17. the Ancillary Section, AIN, LIDB, 8XX and ICNAM are described in the UNE Section.

9.13.3 ——— Rate Elements

Rates and charges for the unbundled CCSAC/SS7 elements will be assessed based on CLEC's specific design requirements. Both nonrecurring and monthly recurring rates may be applicable. Message rating applies to all messages each terminating call set up request (ISUP) traversing the Qwest signaling network. Messages which are transient in nature (not destined for Qwest databases) will be assessed message rates per terminating call set-up requests. Transient database messages (not destined for Qwest) will be assessed rating on a per transient database request (TCAP). Pricing detail is provided in Exhibit A of this Agreement. Rate elements for unbundled CCSAC/SS7 elements are: The highlighted language is new language.

9.13.3.1 Nonrecurring Rates. CCSAC Option Activation Charge – Assessed for adding or changing a point code in the signaling network. Qwest will charge CLEC based upon its selection of either basic or database activation, as detailed in Exhibit A of this Agreement.

9.13.3.2 Recurring Rates

9.13.3.2.1 STP Port - a monthly recurring charge, per connection into the STP.

9.13.3.2.2 Signal Formulation Charge - a per terminating call set up request charge for formulating the ISUP message at a SS7 SP/SSP.

9.13.3.2.3 Signal Transport Charge - a per terminating call set up request or data request charge for the transmission of signaling data between the local STP and an end office SP/SSP. This rate element includes separate charges for ISUP and transient TCAP messages.

9.13.3.2.4 Signal Switching Charge - a per terminating call set up request or data request charge for switching an SS7 message at the local STP. This rate element includes separate charges for ISUP and transient TCAP messages.

The highlighted language is new.

9.13.4 Ordering

9.13.4.1 CCSAC/SS7 unbundled CLEC-designed elements will initially require design information from CLEC. Ordering for CCSAC/SS7 will be handled on an individual basis, using service activation meetings between CLEC and Qwest. CLEC will provide a Translation Questionnaire, Link Data Sheet and ASR during the service activation meetings.

9.13.4.2 Qwest will provide jeopardy notification, Design Layout Reports (DLR), Completion Notification and Firm Order Confirmation (FOC) in a non-discriminatory manner.

9.13.4.3 Due date intervals for CCSAC/SS7 will be established on an individual case basis.

9.13.5 ——— Maintenance and Repair

The Parties will perform cooperative testing and trouble isolation to identify where trouble points exist. CLEC cross connections will be repaired by CLEC and Qwest cross connections will be repaired by Qwest. Maintenance and Repair processes are contained in ~~Section 12~~ of this Agreement.

9.14 AIN Services

9.14.1 Description

AIN services are offered and available as an enhancement to CLEC's SS7 capable network structure and operation of AIN Version 0.1 capable switches.

9.14.1.1 AIN Customized Services (ACS) - Allows CLEC to utilize Qwest's AIN service application development process to develop new AIN services or features. ACS is determined on an individual case basis. The elements are also combined on an individual case basis to meet CLEC's request. Services developed through the ACS process can either be implemented in Qwest's network or handed off to CLEC to be installed in its own network.

9.14.1.2 AIN Platform Access (APA) - This service allows CLEC to provide to its end users any AIN service that is deployed for CLEC utilizing the ACS process in Qwest's SCP. Qwest is responsible for the provisioning of these AIN services. CLEC will be able to populate data for provisioning of the Call Processing Records (CPRs) stored in the SCP for AIN services. The process to provision, modify or update information in the AIN databases is predominately manual.

9.14.1.3 AIN Query Processing (AQP) - TCAP queries are used to collect information from the AIN database for use in call processing of the AIN based services above. CLEC launches a query from an AIN capable switch over the SS7 network to the Qwest Signal Transfer Point (STP). This query is directed to Qwest's SCP to collect data for the response to the originating switch.

9.14.2 -Terms and Conditions

9.14.2.1 AIN Customized Services (ACS) - Since each proposed service is unique and complex, when ACS is ordered, Qwest conducts a feasibility study which estimates the amount of time and cost necessary to develop the proposed service or enhancement. The charges associated with the feasibility analysis, development and implementation shall be established pursuant to the BFR process as described in Section 17 of this Agreement. The service is developed and tested in a Qwest lab environment. If the service is implemented in Qwest's network, it goes through network test prior to implementation.

9.14.2.2 AIN Platform Access (APA)

9.14.2.2.1 Prior to activation of the AIN feature, CLEC's switch point code must be activated for AIN processing on the CCSAC/SS7 link (described in Section 9.13 of this Section) that is transporting the AIN query.

9.14.2.2.2 Qwest will provide requirements for data load preparation and delivery by CLEC.

9.14.2.2.3 In order to make AAOS service work, service logic must be loaded in the AIN application to provision an AIN service on the platform for CLEC. Qwest is responsible for provisioning the Call Processing Record (CPR) in the SCP.

9.14.2.2.4 Each end user line must be provisioned by the facility owner. CLEC is responsible for setting the AIN trigger in its switch.

9.14.2.2.5 AIN Query Processing. Qwest will certify and test the CLEC switch for AIN message transmission to assure quality performance as described in Section 9.13 of this Section. Qwest and CLEC will test cooperatively.

9.14.3 Rate Elements

9.14.3.1 AIN Customized Services (ACS). Hourly rates are applicable for each component of the ACS service according to the estimates determined in the feasibility analysis. The specific charges for each component and the terms and conditions for payment shall be described in the BFR response described above.

9.14.3.2 AIN Platform Access (APA). APA is billed a monthly recurring and a one-time nonrecurring charge for each AIN feature activated, per telephone number.

9.14.3.3 AIN Query Processing. The AIN service rates will be developed and assessed in accordance with the specific service requested by CLEC.

9.14.4 Ordering

9.14.4.1 ACS is ordered on an individual case basis and is coordinated through the Qwest account manager and product manager. Account Manager and Product Manager. Due date intervals for the proposal phase are detailed below:

- a) ~~Within five (5)~~(a) Within five business days of an inquiry, Qwest will provide CLEC with the Service Request Form.
- b) ~~Within ten (b)~~ Within ten (10) business days of receiving the Service Request, Qwest will provide a written acknowledgment of receipt.
- (c) Within fifteen (15) business days of acknowledgment, Qwest will assess the Service Request and prepare for a meeting with CLEC to review the Service Request.
- (d) Qwest will be available to attend a Service Request Meeting within five(5) business days of the completion of the assessment. The Service Request will be considered accepted once Qwest and CLEC come to an agreed-upon understanding of the service feature set and scope.
- (e) Within thirty (30) business days of acceptance of the Service Request, Qwest will provide a response, the Service Evaluation, which includes an initial service evaluation and development time and cost estimates.
- (f) Within ninety (90) business days of end-user approval of the Service Evaluation, Qwest will complete a Feasibility Analysis, which includes development time and costs.

Remaining deliverables are negotiated with CLEC so that mutually-agreeable due dates based on service complexity are established.

9.14.4.2 APA is ordered using the LSR form.

9.14.4.3 In the event that miscellaneous charges apply, they will be applied consistent with the application used for equivalent services ordered by Qwest end users.

9.14.4.4 Upon receipt of a complete and accurate LSR, Qwest will load CLEC records into the AIN database within ten days. Qwest will also establish translations at the STP to allow query access from CLEC switch within ten days.

9.14.4.5 Completion notification will be either by e-mail or by fax.

9.14.4.6 AIN Query Processing (AQP) – is specific to the service ordered and must be established at the time of the APA ordering process.

9.15 Interconnection to Line Information Database (LIDB)

9.15.1 Line Information Database (LIDB) Storage

9.15.1.1 Description -- LIDB Storage

9.15.1.1.1 Line Information Database (LIDB) stores various telephone

line numbers and Special Billing Number (SBN) data used by operator services systems to process and bill Alternately Billed Services (ABS) calls. The operator services system accesses LIDB data to provide originating line (calling number), billing number and terminating line (called number) information. LIDB is used for calling card validation, fraud prevention, billing or service restrictions and the sub-account information to be included on the call's billing record.

9.15.1.1.2 Bellcore's Telcordia GR-446-CORE defines the interface between the administration system and LIDB including specific message formats (Bellcore's Telcordia's TR-NWP-000029, Section 10).

9.15.1.2 Terms and Conditions -- LIDB Storage

CLEC will provide initial data, add, update or delete data, and license said data to Qwest for placement in Qwest's LIDB. CLEC will provide and maintain necessary information to enable Qwest to provide LIDB services. CLEC will ensure, to the extent possible, the accuracy of the data provided to Qwest for storage in Qwest's LIDB, and supply updated and changed data in a timely manner.

9.15.1.3 Rate Elements -- LIDB Storage

LIDB Data Storage does not have a recurring charge. When electronic access becomes available, a one-time non-recurring fee may be charged for the initial load of CLEC's data into LIDB.

9.15.1.4 Ordering -- LIDB Storage

Qwest will be responsible for loading and updating CLEC's line records into the LIDB database from the data provided by CLEC. The establishment of CLEC line records will be provisioned through an interim manual process. Updates, adds, changes and deletions subsequent to the initial file for establishment must be e-mailed to Qwest. Emergency updates (adds, changes, deletes) may be faxed. CLEC is responsible for the accuracy of the data which is sent to Qwest. Inquiries from CLEC must be faxed to Qwest using the approved forms appropriate for the type of inquiry requested.

9.15.2 Line Validation Administration System (LVAS) Access

9.15.2.1 Description -- LVAS Access

9.15.2.1.1 LVAS is the comprehensive administrative management tool which loads the LIDB data and coordinates line record updates in Qwest's redundant LIDB databases. LVAS is the vehicle which audits stored information and assures accurate responses.

9.15.2.1.2 LVAS access is available only to facility-based CLECs.

9.15.2.2 Terms and Conditions -- LVAS Access

9.15.2.2.1 CLEC will provide Qwest with the following information:

- a) The LIDB service requested (*i.e.*, calling name, calling cards, Originating Line Number Screening (OLNS), ABS, etc.);
- b) CLEC's Revenue Accounting Office (RAO), Operating Customer Number (OCN), and/or Local Service Provider Identification (LSPI);
- c) The NPA NXX and signaling point codes for the operator or end office switches from which queries are launched;
- d) The identity of CLEC's SS7 provider for Number Portability, ABS, OLNS and calling name;
- e) The identity of CLEC's operator services provider for ABS queries;
- f) A forecast for changes in volumes of line records, both increases and decreases; and
- g) The contact names and fax numbers of all CLEC personnel to be contacted for fraud notification and LIDB data administration.

9.15.2.2.2 CLEC will e-mail to Qwest all updates, adds, changes, and deletions to the initial file in ASCII format.

9.15.2.2.3 Within one business day of receipt of the file, Qwest will attempt to load the file into LVAS. If Qwest successfully loads the file into LVAS, the originator of CLEC's files will be notified by Qwest.

9.15.2.2.4 In the event that Qwest is not successful in loading the file because errors were detected, Qwest will e-mail the file back to CLEC with an error notice.

9.15.2.2.5 Reserved for ~~future use~~ Future Use.

9.15.2.2.6 Qwest will provide to CLEC the necessary methods and procedures when the LVAS electronic interface becomes available.

9.15.2.3 Rate Elements -- LVAS Access

9.15.2.3.1 LIDB Line Record Initial Load Charge - CLEC shall reimburse Qwest for all charges Qwest incurs relating to the input of CLEC's end user line record information, including the formatting of data so that it may be loaded into LVAS.

9.15.2.3.2 Mechanized Service Account Update - LVAS Access is the product which allows CLEC to add, update and delete telephone line

numbers from the Qwest LIDB for CLEC's end users. Qwest will charge CLEC for each addition or update processed.

9.15.2.3.3 Individual Line Record Audit - CLEC may verify the data for a given ten (10) digit line number using an inquiry of its end user data.

9.15.2.3.4 Account Group Audit - CLEC may audit an individual Account Group NPA-NXX.

9.15.2.4 Expedited Request Charge for Manual Updates - CLEC may request an expedited manual update to the LIDB database that requires immediate action (i.e., deny PIN number). Qwest shall assess CLEC an expedited request charge for each manual update.

9.15.2.5 Ordering - LVAS Access.

LVAS report queries from CLEC must be faxed to Qwest MIDAS center using the approved forms appropriate for the type of inquiry requested.

9.15.2.6 Billing - Line Validation Administration System (LVAS) Access.

When electronic access becomes available, a per query rate may apply to each Mechanized Service Account Update, Individual Line Record Audit, Account Group Audit, and Expedited Request Charge for Manual Updates.

9.15.3 LIDB Query Service

9.15.3.1 Description - LIDB Query Service

9.15.3.1.1 LIDB Query Service provides information to query originators for use in processing Alternately Billed Services (ABS) calls. ABS call types include calling card, billed to third number, and collect calls.

9.15.3.1.2 On behalf of CLEC, Qwest will process LIDB queries from query originators (Telecommunications Carriers) requesting CLEC telephone line number data. Qwest allows LIDB query access through Qwest regional STPs.

9.15.3.2 Terms and Conditions - LIDB Query Service

9.15.3.2.1 All LIDB queries and responses from operator services systems and end offices are transmitted over a CCS network using a Signaling System 7 (SS7) protocol (TR-NWT-000246, Bell Communications Research Specification of Signaling System 7).

9.15.3.2.2 The application data needed for processing LIDB data are formatted as Transaction Capabilities Application Part (TCAP) messages. TCAP messages may be carried as an application level protocol using SS7 protocols for basic message transport.

9.15.3.2.3 The SCP node provides all protocol and interface support.

CLEC SS7 connections will be required to meet Bellcore's GR905, TR954 and Qwest's Technical Publication 77342 specifications.

9.15.3.2.4 Qwest will include CLEC-provided data in Qwest's LIDB in accordance with section 9.15.1 (LIDB Storage), and allow access to the data subject to Qwest negotiated agreements with Telecommunications Carriers, allowing CLEC's end users the same benefits of said agreements as enjoyed by Qwest end users. Qwest will update CLEC data, as requested by CLEC. Qwest will perform services provided hereunder and determine the applicable standard for the data, in accordance with operating methods, practices and standards in effect-effect. Qwest shall exercise reasonable efforts to provide accurate and complete LIDB information in Qwest's LIDB.

9.15.3.3 Rate Elements - LIDB Query Service

9.15.3.3.1 The recurring charges for LIDB queries for Alternately Billed Services (ABS) calls processed by an Operator Services Switch are contained in Exhibit A of this Agreement.

9.15.3.3.2 LIDB Query rates apply in addition to all applicable CCSAC charges.

9.15.3.4 Ordering - LIDB Inquiry Service

9.15.3.4.1 LIDB requires a connection to the Common Channel Signaling Network (CCSN). Therefore, CLEC must have Common Channel Signaling Access Capability (CCSAC).

9.15.3.4.2 Provisioning of LIDB is done via the LIDB Access Request Form. Upon receipt of an accurate LIDB Access Request Form, Qwest will complete all necessary work and service will be available within seven (7) business days.

9.15.3.4.3 In addition to the LIDB Request Form, hub providers requesting LIDB services on behalf of ~~end-users~~CLEC must furnish Qwest a Proof of Authorization to prove that they have ~~end-user~~CLEC authorization to provide these services. This letter must be on file prior to provisioning.

9.15.4 Fraud Alert Notification

9.15.4.1 Description - Fraud Alert Notification

The Watch_Dog Fraud Management System (FMS) processes the LIDB query detail records to establish patterns and identify potential fraudulent situations. Watch_Dog issues an alert to the Qwest Fraud Investigation Unit (FIU). Qwest will notify CLEC of system alerts on CLEC end user lines.

9.15.4.2 Terms and Conditions - Fraud Alert Notification

Qwest will notify CLEC of system alerts on CLEC end user lines. At the direction of CLEC, Qwest will institute a block to prevent any further occurrence of fraud or uncollectible toll charges in accordance with practices used by Qwest for its own end users. Such practices include, but are not limited to, removing from valid data those data which incur fraud or uncollectible toll charges.

9.15.4.3 Rate Elements - Fraud Alert Notification

Fraud Alert Notification will be billed on a time and material basis per alert.

9.15.4.4 Ordering - Fraud Alert Notification

As part of the planning for LIDB Data Storage, CLEC will provide Qwest a contact for fraud notification. The contact must be available 24 hours a day, 7 days a week. Qwest will not take any action when fraud notification is received other than to notify CLEC. CLEC may request that Qwest deny a calling card. Any request of this type must be followed up by a fax as a confirmation.

9.16 8XX Database Query Service

9.16.1 8XX Database Query Service is an originating service which provides the Carrier Identification Code (CIC) and/or the vertical features associated with the 8XX number. Call routing information in the SMS/800 Database reflects the desires of the owner of the 8XX number as entered in the SMS/800 by its chosen responsible organization.

9.16.2 8XX Optional Features

9.16.2.1 POTS Translation - Delivers the ten-digit Plain Old Telephone Service (POTS) number to CLEC. To determine that the call originated as an 8XX number, the trunk group must be provisioned with Automatic Number Identification (ANI). ANI digit 24 will be delivered to the trunk group.

9.16.2.2 Call Handling and Destination Features - This will allow routing options by specifying a single carrier, multiple carriers, single termination or multiple terminations. Multiple terminations may require the POTS translation feature. Variable routing options are:

- a) Routing by originating NPA-NXX-XXXX;
- b) Time of day;
- c) Day of week;
- d) Specified date; and
- e) Allocation by percentage.

9.16.3 Rate Elements

9.16.3.1 The recurring charges for 8XX Database Query Service, POTS

Translation, and Call Handling and Destination Features are contained in Exhibit A of this Agreement.

9.16.3.2 The rates for 8XX Database Query Service only apply to queries from CLEC's switch to the Qwest 8XX Database. If CLEC routes 8XX traffic to Qwest for delivery to an interexchange carrier, the call shall be handled as jointly provided switched access. If CLEC routes such traffic to Qwest without performing the query, Qwest shall perform the query in accordance with its switched access Tariff.

9.16.3.3 Non-recurring Options Activations Charge will apply for CLEC to activate 8XX Database Query Service. These rate elements are contained in the CCSAC/SS7 section of Exhibit A.

9.16.4 Ordering Process

9.16.4.1 CLEC shall order access to Qwest local STP (links and ports) prior to or in conjunction with 8XX Database Query Service.

9.16.4.2 The information and time intervals to order STP (links and ports) are contained in the Common Channel Signaling Capability/SS7 Section of this Agreement. STP links and ports are required with 8XX Database Query Service.

9.16.4.3 8XX Database Query Service shall be provided within thirty ~~(30)~~30 days after CLEC has access to the Qwest local STP.

9.16.5 Technical Requirements

9.16.5.1 Qwest shall make Qwest's Toll Free Number Database available, through its STPs, for CLEC to query from CLEC's designated switch.

9.16.5.2 The Toll Free Number Database shall return carrier identification and, where applicable, the queried toll free number, translated numbers and instructions as it would in response to a query from a Qwest switch.

9.16.6 Interface Requirements

The signaling interface between CLEC's or other local switch and the Toll-Free Number Database shall use the TCAP protocol as specified in the technical references together with the signaling network interface.

9.16.7 Technical References

SCPs/Databases shall be consistent with the following technical references:

9.16.7.1 GR-246-CORE, Bell Communications Research Specification of Signaling System Number 7, Issue 1 (Bellcore, December 1994);

9.16.7.2 GR-1432-CORE, CCS Network Interface Specification (CCSNIS) Supporting Signaling Connection Control Part (SCCP) and Transaction Capabilities Application Part (TCAP) (Bellcore, March 1994);

9.16.7.3 GR-954-CORE, CCS Network Interface Specification (CCSNIS) Supporting Line Information Database (LIDB) Service 6, Issue 1, Rev. 1

(Bellcore, October 1995);

9.16.7.4 GR-1149-CORE, OSSGR Section 10: System Interfaces, Issue 1 (Bellcore, October 1995) (Replaces TR-NWT-001149);

9.16.7.5 GR-1158-CORE, OSSGR Section 22.3: Line Information Database 6, Issue (Bellcore, October 1995); and

9.16.7.6 WGR-1428-CORE, CCS Network Interface Specification (CCSNIS) Supporting Toll Free Service (Bellcore, May 1995).

10.3 911/E911 Service

10.3.1 Description

10.3.1.1 911 and E911 provides an end user access to the applicable emergency service bureau, where available, by dialing a 3-digit universal telephone number (911).

10.3.1.2 Automatic Location Identification/Data Management System (ALI/DMS). The ALI/DMS database contains end user information (including name, address, telephone number, and sometimes special information from the local service provider or end user) used to determine to which Public Safety Answering Point (PSAP) to route the call. The ALI/DMS database is used to provide more routing flexibility for E911 calls than Basic 911.

10.3.1.3 Basic 911 directly connects to the PSAP all 911 calls from one or more local exchange switches that serve a geographic area. E911 provides additional selective routing flexibility for 911 calls. E911 uses end user data, contained in the ALI/DMS, to determine to which Public Safety Answering Point (PSAP) to route the call.

10.3.2 Terms and Conditions

10.3.2.1 E911 functions provided to CLEC shall be at the same level of accuracy and reliability as for such support and services that Qwest provides to its end users for such similar functionality.

10.3.2.2 In counties where Qwest has obligations under existing agreements as the primary provider of the 911 system to the county, CLEC will participate in the provision of the 911 System as described in Section 10.3.

10.3.2.3 Qwest shall conform to all state regulations concerning emergency services.

10.3.2.4 Qwest shall route E911 calls to the appropriate PSAP.

10.3.2.5 Each Party will be responsible for those portions of the 911 system for which it has total control, including any necessary maintenance to each Party's portion of the 911 system.

10.3.2.6 Qwest will provide CLEC with the identification of the Qwest 911 controlling office that serves each geographic area served by CLEC.

10.3.2.7 Qwest will provide CLEC with the ten-digit telephone numbers of each PSAP agency, for which Qwest provides the 911 function, to be used by CLEC to acquire emergency telephone numbers for operators to handle emergency calls in those instances where CLEC's end user dials "0" instead of "911". It shall be the responsibility of CLEC to verify or confirm the appropriate use of the contact information provided by Qwest with each PSAP prior to offering 911 calls or publication of such data.

10.3.2.8 If a third party is the primary service provider to a county, CLEC will negotiate separately with such third party with regard to the provision of 911 service to the county. All relations between such third party and CLEC are separate from this Agreement and Qwest makes no representations on behalf of the third party.

10.3.2.9 If CLEC is the primary service provider to the county, CLEC and Qwest will negotiate the specific provisions necessary for providing 911 service to the county and will include such provisions in an amendment to this Agreement.

10.3.2.10 CLEC will separately negotiate with each county regarding the collection and reimbursement to the county of applicable end user taxes for 911 service.

10.3.2.11 CLEC is responsible for network management of its network components in compliance with the Network Reliability Council Recommendations and meeting the network standard of Qwest for the 911 call delivery.

10.3.2.12 The Parties shall provide a single point of contact to coordinate all activities under this Agreement.

10.3.2.13 Neither Party will reimburse the other for any expenses incurred in the provision of E911 services. All costs incurred by the Parties for 911/E911 services shall be billed to the appropriate PSAP.

10.3.2.14 Qwest's designated E911 database provider, an independent third party, will be responsible for maintaining the E911 database. CLEC shall have non-discriminatory unbundled access to the E911 database, including the listings of other LECs for purposes of providing 911 services related to the public health, safety and welfare.

10.3.3 E911 Database Updates

10.3.3.1 CLEC exchanges to be included in Qwest's E911 Database will be indicated via written notice to the appropriate 911 authority (state agency or PSAP administrator) and will not require an amendment to this Agreement.

10.3.3.2 Qwest's designated E911 database provider, an independent third party, will be responsible for maintaining the E911 database. Qwest, or its designated database provider, will provide to CLEC an initial copy of the most recent Master Street Address Guide ("MSAG"), and subsequent versions on a quarterly basis, at no charge. MSAGs provided outside the quarterly schedule will be provided and charged on an individual case basis. The data will be provided in computer readable format. Qwest shall provide CLEC access to the Master Street and Address Guide at a level of accuracy and reliability that is equivalent to the access Qwest provides to itself.

10.3.4 E911 Database Updates for Facilities-Based CLECs

10.3.4.1 Qwest will ensure that the 911 database entries for CLEC will be maintained with the same accuracy and reliability that Qwest maintains for Qwest's own end-users.

10.3.4.2 For selective routing table updates, facilities-based CLECs will negotiate directly with Qwest's database provider for the input and validation of end user data into the Qwest Automatic Location Identification ("ALI") database. CLEC will negotiate directly with the PSAP (or PSAP agency's) DMS/ALI provider for input of end user data into the ALI database. In most cases the selective routing table updates and the ALI database will be managed by the same provider. CLEC assumes all responsibility for the accuracy of the data that CLEC provides for MSAG preparation and E911 Database operation.

10.3.4.3 If it is facilities-based, CLEC will provide end user data to Qwest's agent for the Qwest ALI database utilizing NENA-02-001 Recommended Formats For Data Exchange, NENA-02-002 Recommended Standard For Street Thoroughfare Abbreviations and NENA-02-003 Recommended Protocols For Data Exchange. Qwest will furnish CLEC any variations to NENA recommendations required for ALI database input.

10.3.4.4 If it is facilities-based, CLEC will provide end user data to Qwest's database provider for Qwest's ALI database that is MSAG valid and meets all components of the NENA-02-004 Recommended Measurements For Data Quality.

10.3.4.5 If it is facilities-based, CLEC will update its end user records provided to Qwest's database provider for Qwest's ALI database to agree with the 911 MSAG standards for its service areas.

10.3.5 E911 Database Updates for Resale Based CLECs

10.3.5.1 For resold services, Qwest, or its designated database provider, will provide updates to the ALI database in a manner that is at the same level of accuracy and reliability as such updates are provided for Qwest's end-users. For resold accounts, CLEC shall provide Qwest with accurate end-user location information to be updated to the ALI/DMS database. Qwest shall use its current process to update and maintain end user information in the ALI/DMS database.

10.3.6 E911 Database Accuracy

10.3.6.1 E911 Database accuracy shall be measured jointly by the PSAPs and Qwest's database provider in a format supplied by Qwest. The reports shall be forwarded to CLEC by Qwest's database provider when relevant and will indicate incidents when incorrect or no ALI data is displayed. The reports provided to CLEC shall contain CLEC-specific information regarding CLEC's accounts.

10.3.6.2 Each discrepancy report will be jointly researched by Qwest and CLEC. Corrective action will be taken immediately by the responsible Party.

10.3.6.3 Each Party providing updates to the E911 database will be responsible for the accuracy of its end user records. Each Party providing updates specifically agrees to indemnify and hold harmless the other Party from any claims, damages, or suits related to the accuracy of end user data provided for inclusion in the E911 Database.

10.3.6.4 Qwest and the ~~third party administrator (SCC)~~its vendor will provide non-discriminatory error correction for records submitted to the Automatic Location Identification (ALI) database. For resold accounts, if ~~SCC~~vendor detects errors, it will attempt to correct them. If ~~SCC~~vendor is unable to correct the error, ~~SCC~~vendor will contact Qwest for error resolution. For errors referred to Qwest, Qwest will provide the corrections in a non-discriminatory manner. If Qwest is unable to resolve the error, Qwest will contact the Resale-CLEC for resolution. In the case of facility-based CLECs, the ~~third party administrator, SCC,~~vendor will interface directly with the CLEC to resolve record errors.

10.3.7 E911 Interconnection

10.3.7.1 If required by CLEC, Qwest shall interconnect direct trunks from CLEC's network to the Basic 911 PSAP, or the E911 tandem. Such trunks may alternatively be provided by CLEC. If provided by Qwest, such trunks will be provided on a non-discriminatory basis. Qwest shall provide special protection identification for CLEC 911 circuits in the same manner as Qwest provides for its 911 circuits.

10.3.7.1.1 The Parties shall establish a minimum of two (2) dedicated trunks from CLEC's Central Office to each Qwest 911/E911 selective router (i.e., 911 Tandem Office) that serves the areas in which CLEC provides Exchange Service, for the provision of 911/E911 services and for access to all subtending PSAPs ("911 Interconnection Trunk Groups"). CLEC can order diverse routing for 911/E911 circuits, if facilities are available. When Qwest facilities are available, Qwest will comply with diversity of facilities and systems as ordered by CLEC. Where there is alternate routing of 911/E911 calls to a PSAP in the event of failures, Qwest shall make that alternate routing available to CLEC.

10.3.7.1.2 911 Interconnection Trunk Groups must be, at a minimum, DS-0 level trunks configured as a 2-wire analog interface or as part of a digital (1.544 Mbps) interface. Either configuration must use Centralized Automatic Message Accounting ("CAMA") type signaling with MF tones

that will deliver Automatic Number Identification "ANI" with the voice portion of the call, or Signaling System 7 ("SS7") if available (i.e., other signaling technology as available). All 911 Interconnection trunk groups must be capable of transmitting and receiving Baudot code necessary to support the use of Telecommunications Devices for the Deaf ("TTY/TDDs").

10.3.7.1.3 Qwest shall begin restoration of 911/E911 trunking facilities immediately upon notification of failure or outage. Qwest must provide priority restoration of trunks or network outages on the same terms and conditions it provides itself. CLEC will be responsible for the isolation, coordination, and restoration of all 911 network maintenance problems to the CLEC demarcation. Qwest will be responsible for the coordination and restoration of all 911 network maintenance problems beyond the demarcation. Qwest repair service includes testing and diagnostic service from a remote location, dispatch of or in-person visit(s) of personnel. Where an on-site technician is determined to be required, a technician will be dispatched without delay. CLEC is responsible for advising Qwest of the circuit identification when notifying Qwest of a failure or outage. The Parties agree to work cooperatively and expeditiously to resolve any 911 outage. Qwest will refer network trouble to CLEC if no defect is found in Qwest's network. The Parties agree that 911 network problem resolution will be managed in an expeditious manner at all times.

10.3.7.2 For CLEC-identified 911 trunk blockages, Qwest agrees to take corrective action using the same trunking service procedures used for Qwest's own E911 trunk groups.

10.3.7.3 The Parties will cooperate in the routing of 911 traffic in those instances where the ALI/ANI information is not available on a particular 911 call.

10.3.7.4 For a facility-based CLEC, Qwest shall provide 911 ~~Interconnection, interconnection~~, including the provision of dedicated trunks from CLEC end office switch to the 911 control office, at parity with what Qwest provides itself.

10.3.7.5 For a reseller CLEC, or a CLEC using unbundled switching, Qwest shall provide CLEC with access to the same 911 trunks used for Qwest's retail end-users which extend from the Qwest end office switch to the Basic 911 PSAP or the E911 tandem. CLEC access to such 911 trunks shall be on a shared, non-discriminatory basis.

10.3.8 E911 and Number Portability

10.3.8.1 When a Qwest telephone number is ported out, the receiving CLEC shall be responsible to update the ALI/DMS database. When a CLEC telephone number is ported in, Qwest shall be responsible to update the ALI/DMS database.

10.3.8.2 When Remote Call Forwarding (RCF) is used to provide number portability to the end user and a remark or other appropriate field information is available in the database, the shadow or "forwarded-to" number and an indication that the number is ported shall be added to the end user record by CLEC.

10.4 White Pages Directory Listings

10.4.1 Description

White Pages Listings Service (Listings) consists of Qwest placing the names, addresses and telephone numbers of CLEC's end users in Qwest's listing database, based on end user information provided to Qwest by CLEC. Qwest is authorized to use CLEC end user listings as noted below.

10.4.2 Terms and Conditions

10.4.2.1 CLEC will provide in ~~standard, standard format, by mechanized format, and/or by manual transmission to Qwest, its primary, premium, and privacy listings.~~ Qwest will ~~accept at no charge, one primary listing for each main telephone number belonging to CLEC's end users. Primary listings are defined in Qwest general exchange Tariffs.~~ CLEC's end users at no charge.

10.4.2.2 CLEC will be charged for premium and privacy listings (e.g., additional, foreign, cross reference) at Qwest's General Exchange listing Tariff rates, less the wholesale discount, as described in Exhibit A. Primary listings and other types of listings are defined in the Qwest General Exchange Tariffs.

10.4.2.3 Information on submitting and updating listings is available in "Qwest Facility Based and CLEC Listings User Documents." Qwest will furnish CLEC the listings format specifications. Directory publishing schedules and deadlines will be provided to CLEC.

10.4.2.4 If CLEC provides its end users' listings to Qwest, CLEC grants Qwest a non-exclusive license to incorporate access to CLEC's end user listings information into its directory assistance database solely for use in its Directory Assistance List Service, except as provided in Section 10.4.2.5, and subject to the terms and conditions of this Agreement. Qwest will incorporate CLEC's end user listings into the directory assistance database. Qwest will incorporate CLEC's end user listings information in all existing and future directory assistance applications developed by Qwest. Should Qwest cease to be a telecommunications carrier, by virtue of a divestiture, merger or other transaction, this access grant automatically terminates.

10.4.2.5 CLEC end user listings will be treated the same as Qwest's end user listings. No prior authorization ~~Prior written authorization from CLEC, which authorization may be withheld, shall be required for Qwest to sell, make available, or release CLEC's end user listings to directory publishers, or other third parties other than directory assistance providers, or other third parties providers. No prior authorization from CLEC shall be required for Qwest to sell, make available, or release CLEC's end user directory assistance listings~~

to directory assistance providers. Listings shall not be provided or sold in such a manner as to segregate end users by carrier. Qwest will not charge CLEC for updating and maintaining its Qwest's listings databases. CLEC will not receive compensation from Qwest for any sale of listings by Qwest as provided for under this Agreement.

10.4.2.6 To the extent that state Tariffs limit Qwest's liability with regard to listings, the applicable state Tariff(s) is incorporated herein and supersedes the Limitation of Liability section of this Agreement with respect to listings only.

10.4.2.7 Qwest is responsible for maintaining listings, including entering, changing, correcting, rearranging and removing listings in accordance with CLEC orders.

10.4.2.8 Qwest provides non-discriminatory appearance and integration of white pages listings for all CLEC's and Qwest's end users. All requests for white pages directory listings, whether CLEC or Qwest end users, follow the same processes for entry into the listings database.

10.4.2.9 Qwest will take reasonable steps in accordance with industry practices to accommodate nonpublished and nonlisted listings provided that CLEC has supplied Qwest the necessary privacy indicators on such listings.

10.4.2.10 CLEC white pages listings will be in the same font and size as listings for Qwest end-users, and will not be separately classified.

10.4.2.11 Qwest processes for publication of white pages directory listings will make no distinction between CLEC and Qwest subscribers. CLEC listings will be provided with the same accuracy and reliability as Qwest's end user listings. Qwest will ensure CLEC listings provided to Qwest are included in the white pages directory published on Qwest's behalf using the same methods and procedures, and under the same terms and conditions, as Qwest uses for its own end user listings.

10.4.2.12 Qwest shall ensure its third party publisher distributes appropriate alphabetical and classified directories (white and yellow pages) and recycling services to CLEC end-users at parity with Qwest end users, including providing directories a) upon establishment of new service; b) during annual mass distribution; and c) upon end-user request.

10.4.2.13 CLEC shall use commercially reasonable efforts to ensure that listings provided to Qwest are accurate and complete. All third party listings information is provided AS IS, WITH ALL FAULTS. CLEC further represents and warrants the end user that it shall review all listings information provided to Qwest is accurate and correct. 10.4.2.14 CLEC further represents and warrants that it has reviewed all listings provided to Qwest, including end user requested restrictions on use, such as nonpublished and nonlisted nonlisted restrictions.

10.4.2.14 Reserved for Future Use.

10.4.2.15 CLEC shall be solely responsible for knowing and adhering to state laws or rulings regarding listings(~~e.g., no solicitation requirement in the state of Arizona~~), and for supplying Qwest with the applicable listing information.

10.4.2.16 CLEC agrees to provide to Qwest its end user names, addresses and telephone numbers in a standard mechanized format, as specified by Qwest.

10.4.2.17 CLEC will supply its ACNA/CIC or CLCC/OCN, as appropriate, with each order to provide Qwest the means of identifying listings ownership.

10.4.2.18 ~~Upon request by Qwest, CLEC shall submit proof to Qwest of authorization from each end user for which CLEC submits a change in end user's listing. Prior to placing listings orders on behalf of end users, CLEC shall be responsible for obtaining and have in its possession Proof of Authorization ("POA"), as set forth in Section 5.3 of this Agreement.~~

10.4.2.19 Qwest will provide monthly listing verification proofs that provide the data to be displayed in the published white pages directory and available on directory assistance. Verification proofs containing nonpublished and nonlisted listings are also available upon request on the same monthly schedule.

10.4.2.20 Qwest will provide CLEC a reasonable opportunity to verify the accuracy of the listings to be included in the white pages directory and directory assistance.

10.4.2.21 CLEC may review and if necessary edit the white page listings prior to the close date for publication in the directory.

10.4.2.22 CLEC is responsible for all dealings with, and on behalf of, CLEC's end users, including:

10.4.2.22.1 All end user account activity (e.g., end user queries and complaints);

10.4.2.22.2 All account maintenance activity (e.g., additions, changes, issuance of orders for listings to Qwest);

10.4.2.22.3 Determining privacy requirements and accurately coding the privacy indicators for CLEC's end user information (if end user information provided by CLEC to Qwest does not contain a privacy indicator, no privacy restrictions will apply); and

10.4.2.22.4 Any additional services requested by CLEC's end users.

10.4.2.23 Pursuant to Sec. 222 (a), (b), (c), (d), and (e) of the Telecommunications Act, ~~U-SWEST~~Qwest will provide subscriber lists information gathered in Qwest's capacity as a provider of local exchange service on a timely and unbundled basis, under non-discriminatory and reasonable rates, terms and conditions to CLEC upon request for the purpose of publishing directories in any format. Rates may be subject to federal or state laws or rules, as appropriate. Upon request by CLEC, Qwest shall enter into negotiations with

CLEC for CLEC's use of subscriber list information for purposes other than publishing directories, and Qwest and CLEC will enter into a written contract if agreement is reached for such use.

10.4.2.23.1 Qwest shall use commercially reasonable efforts to ensure that its retail end user listings provided to CLEC are accurate and complete. Any third party listings are provided AS IS, WITH ALL FAULTS. Qwest further represents that it shall review all its retail end user listings information provided to CLEC including end-user requested restrictions on use, such as nonpublished and nonlisted restrictions.

10.4.2.24 Qwest represents and warrants that any arrangement for the publication of white pages directory listings with an affiliate (including, without limitation, Qwest Dex, Inc.) (an "Affiliate"), requires such Affiliate to publish the directory listings of CLEC contained in Qwest's listings database so that CLEC's directory listings are non-discriminatory in appearance and integration, and have the same accuracy and reliability that such Affiliate provides to Qwest's end users.

10.4.2.25 Qwest further agrees that any arrangements for the publication of white pages directory listings with an Affiliate shall require such Affiliate to include in the customer guide pages of the white pages directory, a notice that end users should contact their local service provider to request any modifications to their existing listing or to request a new listing.

10.4.2.26 Qwest agrees that any arrangement with an Affiliate for the publication of white pages directory listings shall require such Affiliate to provide CLEC space in the customer guide pages of the white pages directory for the purpose of notifying customers how to reach CLEC to: (1) request service; (2) contact repair service; (3) dial directory assistance; (4) reach an account representative; (5) request buried cable local service; and (6) contact the special needs center for customers with disabilities.

10.4.3 Rate Elements

The following rate elements apply to White Pages Listings and are contained in Exhibit A of this Agreement.

10.4.3.1 Primary Listings; and

10.4.3.2 Premium/Privacy Listings.

10.4.4 Ordering Process

10.4.4.1 Qwest provides training on white page listings requests and submission processes. The ordering process is similar to the service ordering process.

10.4.4.2 CLEC listings can be submitted for inclusion in Qwest white pages directories according to the directions in the Qwest Listings User Documents for ~~Facility Based and Resale~~ Facility-Based and Reseller CLECs, which is available

on-line through the Interconnect and Resale ResourceGuide (<http://www.uswest.com/carrier/guides/interconnect/index.html>) Guide, (<http://www.uswest.com/wholesale/> or will be provided in hard copy to CLEC upon request. Initial information and directions are available in the Interconnect and Resale Resource Guide.

10.4.4.3 CLEC can submit the OBF forms incorporated in the Local Service Request via the IMA EDI, IMA GUI, or fax.

10.5 Directory Assistance

10.5.1 Description

10.5.1.1 Directory assistance service is a telephone number, voice information service that Qwest provides to its own end users and to other ~~Telecommunications Carriers~~. Qwest provides CLEC non-discriminatory access to Qwest's directory assistance centers, services and directory assistance databases. There are three forms of Directory Assistance Services available pursuant to this Agreement -- Directory Assistance Service, Directory Assistance List Services, and Directory Assistance Database Service. These services are available with CLEC-specific branding, generic branding and Directory Assistance Call Completion Link options.

10.5.1.1.1 Directory Assistance Service -- The published and non-listed telephone numbers provided within the relevant geographic area are those contained in Qwest's then current Directory Assistance database.

10.5.1.1.1.1 Local Directory Assistance Service -- Allows CLEC's end users to receive published and non-listed telephone numbers within the caller's NPA/LATA geographic areas, whichever is greater.

10.5.1.1.1.2 National Directory Assistance Service -- Allows CLEC's end users to receive listings from Qwest's Local Directory Assistance database and from the database of the National Directory Assistance services vendor selected by Qwest. National Directory Assistance Service includes Local Directory Assistance Service.

10.5.1.1.1.3 Call Branding Service -- Allows CLEC's end users to receive the service options listed in 10.5.1.1.1.1 and 10.5.1.1.1.2 branded with the brand of CLEC, where technically feasible or with a generic brand. Call Branding announces CLEC's name to CLEC's end user at the start and completion of the call. Call Branding is an optional service available to CLEC.

a) Front End Brand -- Announces CLEC's name to CLEC's end user at the start of the call. There is a nonrecurring charge to setup and record the Front End Brand message.

b) Back End Brand -- Announces CLEC's name to CLEC's end user at the completion of the call. There is a nonrecurring charge to setup and record the Back End Brand message.

c) There is a non-recurring charge to load CLEC's branded message in each switch.

d) Qwest will record the CLEC's branded message.

10.5.1.1.1.4 Call Completion Link allows the CLEC's end users' calls to be returned to the CLEC for completion on the CLEC's network, where available. There is a recurring charge per call.

10.5.1.1.2 Directory Assistance List Service -- Directory Assistance List Service is the bulk transfer of access to Qwest's directory listings for subscribers within Qwest's ~~fourteen~~ (14) states for the purpose of providing under a non-exclusive, non-transferable, revocable license to use the information solely for the purpose of providing Directory Assistance Service to its local exchange end user customers subject to the terms and conditions of this Agreement. See Section 10.6 for terms and conditions relating to the Directory Assistance List Services. ~~Services under a non-exclusive, non-transferable, revocable license to use the information solely for the purpose of providing directory assistance service subject to the terms and conditions of this Agreement. See Section 10.6 of this Agreement for the terms and conditions under which Qwest supplies Directory Assistance List Services to CLEC.~~

10.5.1.1.2.1 If CLEC elects to build its own directory assistance service, it can obtain Qwest directory listings through the purchase of the Directory Assistance List.

10.5.1.1.3 Directory Assistance Database Service -- Qwest shall provide CLEC non-discriminatory access to Qwest's Directory Assistance Database or "Directory1" database, where technically feasible, on a "per dip" basis.

10.5.2 Terms and Conditions

10.5.2.1 Qwest will provide CLEC non-discriminatory access to Qwest's directory assistance databases, directory assistance centers and personnel to provide Directory Assistance service.

10.5.2.2 Qwest's Directory Assistance database contains only those published and non-listed telephone number listings obtained by Qwest from its own end users and other Telecommunications Carriers.

10.5.2.3 Qwest will provide access to Directory Assistance Service for facility-based CLECs via dedicated multi-frequency (MF) operator service trunks. CLEC may purchase operator service trunks from Qwest or provide them itself. These operator service trunks will be connected directly to a Qwest Directory

Assistance host or remote switch. CLEC will be required to order or provide at least one operator services trunk for each NPA served.

10.5.2.4 Qwest will perform Directory Assistance Services for CLEC in accordance with operating methods, practices, and standards in effect for all Qwest end users. Qwest will provide the same priority of handling for CLEC's end user calls to Qwest's Directory Assistance service as it provides for its own end user calls. Calls to Qwest's directory assistance are handled on a first come, first served basis, without regard to whether calls are originated by CLEC or Qwest end users.

10.5.2.5 Call Branding for Directory Assistance will entail recording and setting up a brand message. Dedicated interoffice facilities are required.

10.5.2.6 Call Completion Link requires dedicated interoffice facilities.

10.5.2.7 If CLEC elects to access the Qwest Directory Assistance databases on a per dip basis, Qwest will provide to CLEC the facility and equipment specifications necessary to enable CLEC to obtain compatible facilities and equipment.

10.5.2.8 A reseller CLECs' end user customers may use the same dialing pattern to access directory assistance service as used by Qwest's end user customers (i.e., 411, 1+411, or 1+NPA+555-1212).

10.5.2.9 A facility-based CLEC may choose to have its end-users dial a unique number or use the same dialing pattern as Qwest end users to access Qwest Directory Assistance operators.

10.5.2.10 Qwest will timely enter into its Directory Assistance database updates of CLEC's listings. Qwest will implement quality assurance procedures such as random testing for listing accuracy. Qwest will identify itself to end users calling its DA service provided for itself either by company name or operating company name or operating company number so that end users have a means to identify with whom they are dealing.

10.5.2.10.1 In accordance with Section 18, CLEC may request a comprehensive audit of Qwest's use of CLEC's directory assistance listings. In addition to the terms specified in Section 18, the following also apply: as used herein, "Audit" shall mean a comprehensive review of the other Party's delivery and use of the directory assistance listings provided hereunder and such other Party's performance of its obligations under this Agreement. CLEC may perform up to two (2) audits per 12-month period commencing with the effective date of this Agreement of Qwest's use of CLEC's directory assistance listings in Qwest's directory assistance service. CLEC shall be entitled to "seed" or specially code some or all of the directory assistance listings that it provides hereunder in order to trace such information during an Audit and ensure compliance with the disclosure and use restrictions set forth in this Agreement.

10.5.2.11 Qwest shall use CLEC's Directory Assistance listings supplied to Qwest by CLEC under the terms of this Agreement solely for the purposes of providing Directory Assistance Service and for providing DA List Information to Directory Assistance providers.

10.5.2.12 At least ninety (90) days prior to using Qwest's directory assistance services, CLEC will provide a written forecast of its expected volume of directory assistance service calls. Should CLEC plan to substantially increase or decrease its actual usage as forecast by more than twenty-five percent (25%) of originally forecast usage, CLEC will give Qwest advance written notice of such planned change at least sixty (60) days prior to implementing such changed use. CLEC will update its forecasts of directory assistance service use, in writing annually, at least sixty (60) days prior to the anniversary date of its first forecast. This has never been discussed or agreed to in the workshops on this checklist item.

10.5.3 ——— Rate Elements

The following rate elements apply to directory assistance service and are contained in Exhibit A of this Agreement.

10.5.3.1 A per call rate is applicable for Local Directory Assistance and National Directory Assistance Service selected by CLEC.

10.5.3.2 A non-recurring setup and recording fee will be charged for establishing each Call Branding option. A nonrecurring charge to load the CLEC's brand in each switch is also applicable. Such non-recurring fees must be paid before service commences.

10.5.3.3 A per call rate is applicable for Call Completion Link.

10.5.4 ——— Ordering Process

CLEC will order Directory Assistance Service by completing the questionnaire entitled "Qwest Operator Services/Directory Assistance Questionnaire for Local Service Providers." This questionnaire may be obtained from CLEC's Qwest account manager.

10.5.5 ——— Billing

10.5.5.1 Qwest will track and bill CLEC for the number of calls placed to Qwest's Directory Assistance service by CLEC's end users as well as for the number of requests for Call Completion Link.

10.5.5.2 For purposes of determining when CLEC is obligated to pay the per call rate, the call shall be deemed made and CLEC shall be obligated to pay when the call is received by the Operator Services switch. An end user may request and receive no more than two telephone numbers per Directory Assistance call. Qwest will not credit, rebate or waive the per call charge due to any failure to provide a telephone number.

10.5.5.3 Call Completion Link will be charged at the per call rate when the end user completes the required action (i.e., "press the number one," "stay on the line," etc.).

10.6 Directory Assistance List

10.6.1 Description

10.6.1.1 Directory Assistance List (DA List) Information consists of name, address and telephone number information for all end users of Qwest and other LECs that are contained in Qwest's directory assistance database and, where available, related elements required in the provision of Directory Assistance service to CLEC's end users. No prior authorization from CLEC shall be required for Qwest to sell, make available, or release CLEC's end user Directory Assistance listings to Directory Assistance providers. In the case of end users who have non-published listings, Qwest shall provide the end user's local numbering plan area ("NPA"), address, and an indicator to identify the non-published status of the listing to CLEC; however, Qwest will not provide the non-published telephone number.

10.6.1.2 Qwest will provide DA List Information via initial loads and daily updates either by means of a magnetic tape or Network Data Mover (NDM) or as otherwise mutually agreed upon by the Parties. Qwest will provide all changes, additions or deletions to the DA List Information overnight on a daily basis. The Parties will use a mutually agreed upon format for the data loads.

10.6.1.3 DA List Information shall specify whether the Qwest subscriber is a residential, business, or government subscriber, and the listings of other carriers will specify such information where it has been provided on the carrier's listing order.

10.6.1.4 In the event CLEC requires a reload of DA List Information from Qwest's database in order to validate, synchronize or reconcile its database, a reload will be made available according to the rate specified in Exhibit A.

10.6.1.5 Qwest and CLEC will cooperate in the designation of a location to which the data will be provided.

10.6.2 Terms and Conditions

10.6.2.1 Qwest grants to CLEC, as a competing provider of telephone exchange service and telephone toll service, ~~a non-exclusive, non-transferable, revocable license to use~~ access to the DA List Information solely for the purpose of providing DA service Directory Assistance Service to its local exchange end user customers, or for other incidental use by other carrier's customers, ~~carriers or for other incidental use by other carrier's customers~~, subject to the terms and conditions of this Agreement. As it pertains to the DA List Information in this Agreement, "Directory Assistance Service" shall mean the provision, by CLEC via a live operator or a mechanized system, of telephone number and address information for an identified telephone service end user or the name and/or address of the telephone service end user for an identified telephone

number. Should CLEC cease to be a Telecommunications Carrier, Telecommunications Carrier, a competing provider of telephone exchange service or telephone toll service, this license access grant automatically terminates. DA List terminates information

10.6.2.1.1 Qwest shall make commercially reasonable efforts to ensure that listings of Qwest retail end users provided to CLEC in Qwest's DA List Information are accurate and complete. All third party DA List Information is provided AS IS, WITH ALL FAULTS. Qwest further represents that it shall review all of its end user listings information provided to CLEC, including end user requested restrictions on use, such as nonpublished and nonlisted restrictions.

10.6.2.2 CLEC will obtain and timely enter into its Directory Assistance database daily updates of the DA List Information, will implement quality assurance procedures such as random testing for directory assistance listing accuracy, and will identify itself to end-users calling its DA service either by company name or operating company number so that end- end-users have a means to identify with whom they are dealing.

10.6.2.3 CLEC shall not use the DA List Information provided hereunder for any other purpose whatsoever. By way of example and not limitation, Qwest's DA List Information shall not be used by CLEC for soliciting subscribers, telemarketing, creating or distributing marketing lists or other compilations of use Qwest's Directory Assistance listings supplied to CLEC under the terms of this Agreement solely for the purposes of providing Directory Assistance Service. marketing information, or publishing any form of a directory.

10.6.2.4 Qwest shall retain all right, title, interest and ownership in and to the DA Listing Information it provides hereunder. CLEC acknowledges and understands that while it may disclose the names, addresses, and telephone numbers (or an indication of non-published status) of Qwest's end users to a third party calling its Directory Assistance for such information, the fact that such end user subscribes to Qwest's Telecommunications Services telecommunications services is confidential and proprietary information and shall not be disclosed to any third party.

10.6.2.5 CLEC shall not sublicense, copy or allow any third party to access, download, copy or use the DA List Information, or any portions thereof, or any information extracted therefrom. Each Party shall take commercially reasonable and prudent measures to prevent disclosure and unauthorized use of Qwest's DA List Information at least equal to the measures it takes to protect its own confidential and proprietary information, including but not limited to implementing adequate computer security measures to prevent unauthorized access to Qwest's DA List Information when contained in any database.

10.6.2.5.1 Unauthorized use of Qwest's DA List information, or any disclosure to a third party of the fact that an end user, whose listing is furnished in the DA list, subscribes to Qwest's, another Local Exchange Carrier's, Reseller's or CMRS's Telecommunications Services shall be

considered a material breach of this Agreement and shall be resolved under the Dispute Resolution provisions of this Agreement.

10.6.2.6 Within five (5) days after the expiration or earlier termination of this Agreement, CLEC shall (a) return and cease using any and all DA List Information which it has in its possession or control, (b) extract and expunge any and all copies of such DA List Information, any portions thereof, and any and all information extracted therefrom, from its files and records, whether in print or electronic form or in any other media whatsoever, and (c) provide a written certification to Qwest from an officer that all of the foregoing actions have been completed. A copy of this certification may be provided to third party carriers if the certification pertains to such carriers' DA List Information contained in Qwest's database.

10.6.2.7 CLEC is responsible for ensuring that it has proper security measures in place to protect the privacy of the end user information contained within the DA List Information. CLEC must remove from its database any telephone number for an end user whose listing has become non-published when so notified by Qwest.

10.6.2.8 Audits -- In accordance with Section 18, Qwest may request a comprehensive audit of CLEC's use of the DA List Information. In addition to the terms specified in Section 18, the following also apply:

10.6.2.8.1 As used herein, "Audit" shall mean a comprehensive review of the other Party's delivery and use of the DA List Information provided hereunder and such other Party's performance of its obligations under this Agreement. Either Party (the "Requesting Party") may perform up to two (2) Audits per 12 month period commencing with the effective date of this Agreement. Qwest shall be entitled to "seed" or specially code some or all of the DA List Information that it provides hereunder in order to trace such information during an Audit and ensure compliance with the disclosure and use restrictions set forth in Section 10.6.2.2 above.

10.6.2.8.2 All paper and electronic records will be subject to audit.

10.6.2.9 CLEC recognizes that certain carriers who have provided DA List Information that is included in Qwest's database may be third party beneficiaries of this Agreement for purposes of enforcing any terms and conditions of the Agreement other than payment terms with respect to their DA List Information.

10.6.2.10 Qwest will provide a non-discriminatory process and procedure for contacting end users with non-published telephone numbers in emergency situations for non-published telephone numbers that are included in Qwest's directory assistance database. Such process and procedure will be available to CLEC for CLEC's use when CLEC provides its own directory assistance and purchases Qwest's Directory Assistance List product.

10.6.3 Rate Elements

Recurring and non-recurring rate elements for DA List Information are described below and are contained in Exhibit A of this Agreement.

10.6.3.1 Initial Database Load -- A "snapshot" of data in the Qwest DA List Information database or portion of the database at the time the order is received.

10.6.3.2 Reload -- A "snapshot" of the data in the Qwest DA List Information database or portion of the database required in order to refresh the data in CLEC's database.

10.6.3.3 Daily Updates -- Daily change activity affecting DA List Information in the listings database.

10.6.3.4 One-Time Set-Up Fees -- Charges for special database loads.

10.6.3.5 Output Charges -- Media charges resulting from either the electronic transmission or tape delivery of the DA List Information, including any shipping costs.

10.6.4 Ordering

10.6.4.1 CLEC may order the initial DA List Information load or update files for Qwest's local exchange service areas in its 14 state operating territory or, where technically feasible, CLEC may order the initial DA List Information load or update files by Qwest White Page Directory Code or NPA.

10.6.4.2 Special requests for data at specific geographic levels (such as NPA) must be negotiated in order to address data integrity issues.

10.6.4.3 CLEC shall use the Directory Assistance List Order Form found in the Interconnect & Resale Resource Guide.

10.7 Toll and Assistance Operator Services

10.7.1 Description

10.7.1.1 Toll and assistance operator services are a family of offerings that assist end users in completing EAS/local and long distance calls. Qwest provides non-discriminatory access to Qwest operator service centers, services and personnel.

10.7.1.1.1 Local Assistance. Assists CLEC end users requesting help or information on placing or completing EAS/local calls, connects CLEC end users to home NPA directory assistance, and provides other information and guidance, including referral to the business office and repair, as may be consistent with Qwest's customary practice for providing end user assistance.

10.7.1.1.2 IntraLATA Toll Assistance. Qwest will direct CLEC's end user to contact its provider to complete interLATA toll calls. Nothing in this Section is intended to obligate Qwest to provide any toll services to CLEC or CLEC's end users.

10.7.1.1.3 Emergency Assistance. Provide assistance for handling a CLEC end user's EAS/local and IntraLATAintraLATA toll calls to emergency agencies, including but not limited to, police, sheriff, highway patrol and fire. CLEC is responsible for providing Qwest with the appropriate emergency agency numbers and updates.

10.7.1.1.4 Busy Line Verification ("BLV") is performed when a calling party requests assistance from the operator bureau to determine if the called line is in use. The operator will not complete the call for the calling party initiating the BLV inquiry. Only one BLV attempt will be made per call, and a charge shall apply.

10.7.1.1.5 Busy Line Interrupt ("BLI") is performed when a calling party requests assistance from the operator to interrupt a telephone call in progress. The operator will interrupt the busy line and inform the called party that there is a call waiting. The operator will not connect the calling and called parties. The operator will make only one BLI attempt per call and the applicable charge applies whether or not the called party releases the line.

10.7.1.1.6 Quote Service – Provide time and charges to hotel/motel and other CLEC end users for guest/account identification.

10.7.2 ——— Terms and Conditions

10.7.2.1 For facility-based CLECs, Interconnection to Qwest's Operator Services switch is technically feasible at two distinct points on the trunk side of the switch. The first connection point is an operator services trunk connected directly to the Qwest Operator Services host switch. The second connection point is an operator services trunk connected directly to a remote Qwest Operator Services switch.

10.7.2.2 Trunk provisioning and facility ownership must follow Qwest guidelines.

10.7.2.3 In order for CLEC to use Qwest's operator services as a facility-based CLEC, CLEC must provide an operator service trunk between CLEC's end office and the Interconnection point on the Qwest operator services switch for each NPA served.

10.7.2.4 The technical requirements of operator service trunk are covered in the Operator Services Systems Generic Requirement (OSSGR), Bellcore document FR-NWT-000271, Section 6 (Signaling) and Section 10 (System Interfaces) in general requirements form.

10.7.2.5 Each Party's operator bureau shall accept BLV and BLI inquiries from the operator bureau of the other Party in order to allow transparent provision of BLV/BLI traffic between the Parties' networks.

10.7.2.6 CLEC will provide separate no-test trunks (not the ~~local/IntraLATA/local/IntraLATA~~ trunks) to the Qwest BLV/BLI hub or to the Qwest Operator Services Switches.

10.7.2.7 Qwest will perform Operator Services in accordance with operating methods, practices, and standards in effect for all its end users. Qwest will respond to CLEC's end user calls to Qwest's operator services according to the same priority scheme as it responds to Qwest's end user calls. Calls to Qwest's operator services are handled on a first come, first served basis, without regard to whether calls are originated by CLEC or Qwest end users.

10.7.2.8 ~~It is understood that Qwest shall not be obligated to provide specific~~ Qwest will provide operator services where there are facility or technical limitations. ~~Qwest, in its reasonable discretion, to CLEC where technically feasible and facilities are available. Qwest may from time-to-time modify and change the nature, extent, and detail of specific operator services available to its retail end users, and to the extent it does so, Qwest will provide forty-five (45) days' advance written notice to CLEC of such changes.~~

These revisions were never discussed or agreed to in any workshop on this checklist item.

10.7.2.9 Qwest shall maintain adequate equipment and personnel to reasonably perform the Operator Services. CLEC shall provide and maintain the facilities necessary to connect its end users to the locations where Qwest provides the Operator Services and to provide all information and data needed or reasonably requested by Qwest in order to perform the Operator Services.

10.7.2.10 Call Branding is an optional service available to CLEC. Call Branding announces CLEC's name to CLEC's end user at the start of the call and at the completion of the call. If CLEC selects the Call Branding option, Qwest will provide Call Branding to CLEC where technically feasible.

a) Front End Brand – Announces CLEC's name to CLEC's end user at the start of the call. There is a nonrecurring charge to setup and record the Front End Brand message.

b) Back End Brand – Announces CLEC's name to CLEC's end user at the completion of the call. There is a nonrecurring charge to setup and record the Back End Brand message.

10.7.2.11 Call branding for toll and operator services will entail recording and setup of a brand message. Qwest will record the CLEC's branded message. Dedicated interoffice facilities will be required.

10.7.2.12 Call Branding also entails a nonrecurring charge to load CLEC's branded message in each switch.

10.7.2.13 CLEC's end-users may dial "0" or "0+" to access Qwest operator services. A facility-based CLEC may choose to have its end-users access Qwest operators by dialing a unique number or by using the same dialing pattern as Qwest end users.

~~10.7.2.14 At least ninety (90) days prior to using Qwest's operator services, CLEC will provide a written forecast of its expected volume of operator services calls. Should CLEC plan to substantially increase or decrease its actual usage as forecast by more than twenty-five percent (25%) of originally forecast usage, CLEC will give Qwest advance written notice of such planned change at least sixty (60) days prior to implementing such changed use. CLEC will update its forecasts of operator services use, in writing annually, at least sixty (60) days prior to the anniversary date of its first forecast.~~

This section was never discussed or agreed to in the workshops on this checklist item.

10.7.3 ——— Rate Elements

Qwest toll and assistance operator services are offered under two pricing options. Option A offers a per message rate structure. Option B offers a work second and a per call structure. Applicable recurring and nonrecurring rate elements are detailed below and in Exhibit A of this Agreement.

10.7.3.1 Option A - Operator Services Rate Elements

10.7.3.1.1 Operator Handled Calling Card – For each completed calling card call that was dialed 0+ where the operator entered the calling card number.

10.7.3.1.2 Machine Handled Calling Card – For each completed call that was dialed 0+ where the end user entered the required information, such as calling card number.

10.7.3.1.3 Station Call – For each completed station call, including station sent paid, collect, third number special billing or 0- calling card call.

10.7.3.1.4 Person Call – For each completed person to person call regardless of the billing used by the end user.

10.7.3.1.5 Connect to Directory Assistance – For each operator placed call to directory assistance.

10.7.3.1.6 Busy Line Verify – For each call where the operator determines that conversation exists on a line.

10.7.3.1.7 Busy Line Interrupt – For each call where the operator interrupts conversation on a busy line and requests release of the line.

10.7.3.1.8 Operator Assistance – For each EAS/local call, whether completed or not, that does not potentially generate an operator surcharge. These calls include, but are not limited to: calls given the DDD rate because of transmission problems; calls where the operator has determined there should be no charge, such as Busy Line Verify attempts where conversation was not found on the line; calls where the end user requests information from the operator and no attempt is made to complete a call; and calls for quote service.

10.7.3.1.9 "Completed call" as used in this Section shall mean that the end user makes contact with the location, telephone number, person or extension designated by the end user.

10.7.3.2 Option B - Per Work Second and Computer Handled Calls

10.7.3.2.1 Operator Handled - CLEC will be charged per work second for all calls originating from its end users and facilities that are routed to Qwest's operator for handling. Work second charging begins when the Qwest operator position connects with CLEC's end user and terminates when the connection between the Qwest operator position and CLEC's end user is terminated.

10.7.3.2.2 Machine Handled - calls that are routed without operator intervention. Machine handled calls include, but are not limited to, credit card calls where the end user enters the calling card number, calls originating from coin telephones where the computer requests deposit of coins, additional end user key actions, recording of end user voice, etc.

10.7.3.3 Call Branding Nonrecurring Charge. Qwest will charge to CLEC a nonrecurring setup and recording fee for establishing Call Branding and loading the CLEC's brand in each switch. each switch with CLEC's branded message. CLEC must pay such non-recurring charges prior to commencement of the service service. The non-recurring set-up and recording charge will apply each time the CLEC's brand message is changed. The non-recurring charge to load the switches with the CLEC's branded message will be assessed each time there is any change to the switch.

10.7.4 Ordering Process

CLEC will order Operator Services by completing the "Qwest Operator Services/Directory Assistance Questionnaire for Local Service Providers." Copies of this questionnaire may be obtained from CLEC's designated Qwest account manager.

10.7.5 Billing

10.7.5.1 Qwest will track usage and bill CLEC for the calls placed by CLEC's end users and facilities.

10.7.5.2 Qwest will compute CLEC's invoice based on both Option A (Price Per Message) and Option B (Price Per Work Second and Computer Handled Calls). Qwest will charge CLEC whichever option results in a lower charge.

10.7.5.3 If, due to equipment malfunction or other error, Qwest does not have available the necessary information to compile an accurate billing statement, Qwest may render a reasonably estimated bill, but shall notify CLEC of the methods of such estimate and cooperate in good faith with CLEC to establish a fair, equitable estimate. Qwest shall render a bill reflecting actual billable quantities when and if the information necessary for the billing statement becomes available.

10.8 Access to Poles, Ducts, Conduits, and Rights of Way

10.8.1 Description

10.8.1.1 Pole Attachments – Where it has ownership or control to do so, Each Party Qwest will provide CLEC the other with access to available pole attachment space for the placing of facilities for the purpose of transmitting Telecommunications Services.

10.8.1.1.1 The term Pole Attachment means any attachment by a CLEC to a pole owned or controlled by Qwest.

10.8.1.2 Ducts and Conduits – Where it has ownership or control to do so, Each Party Qwest will provide CLEC the other with access to available underground ducts/conduits for the purpose of placing facilities for transmitting Telecommunications Services. A spare duct/conduit will be leased for copper facilities only, and an innerduct for the purpose of placing fiber. CLEC may place innerduct in an empty duct/conduit. Control of CLEC-installed spare innerduct shall vest in Qwest immediately upon installation; ownership of such innerduct shall vest to Qwest if and when CLEC abandons such innerduct.

10.8.1.2.1 The terms Duct and Conduit mean a single enclosed raceway for conductors, cable and/or wire. Duct and conduit may be in the ground, may follow streets, bridges, public or private ROW or may be within some portion of a multi-unit building. Within a multi-unit building, duct and conduit may traverse building entrance facilities, building entrance links, equipment rooms, remote terminals, cable vaults, telephone closets or building riser. The terms Duct and Conduit include riser conduit.

10.8.1.2.32 The term Innerduct means a duct-like raceway smaller than a duct/conduit that is inserted into a duct/conduit so that the duct may typically carry three cables.

10.8.1.2.4 ROW means a real property interest in privately-owned real property, but expressly excluding any public, governmental, federal or Native American, or other quasi-public or non-private lands, sufficient to permit Qwest to place telecommunications facilities on such real property; such property owner may permit Qwest to install and maintain

facilities under, on, above, across, along or through private property or enter multi-unit buildings.

10.8.1.3 Rights of Way (ROW) – Where it has ownership or control to do so, ~~each Party Qwest~~ will provide to CLEC, via an Access Agreement in the form of Attachment 4 to Exhibit D, ~~the other access to available ROW for the purpose of placing telecommunications facilities for transmitting Telecommunication Services.~~ ROW includes land or other property owned or controlled by Qwest and may run under, on, above, across, along or through public or private property or enter multi-unit buildings.

~~10.8.1.4 Reciprocity – The rights, benefits and obligations in this Section 10.8 are reciprocal. This Section 10.8 expressly specifies rights, benefits, and duties in the context of CLEC obtaining access to qwest's poles, ducts, conduit and ROW. However, in the context of Qwest obtaining access to CLEC's poles, ducts, conduit, and ROW, CLEC shall have the duties, benefits, and rights expressly ascribed to Qwest herein, and Qwest shall have the duties, benefits, and rights expressly ascribed to CLEC herein.~~

10.8.1.4 Reserved for Future Use

10.8.2 Terms and Conditions

Qwest shall provide CLEC non-discriminatory access to poles, ducts, conduit and rights of way on terms and conditions found in the Revised Qwest Right of Way, Pole Attachment and/or Duct/Innerduct Occupancy General Information Document Pole and Attachment and/or Innerduct Occupancy General Terms and Qwest Conditions attached hereto as Exhibit D. Qwest will not favor itself over CLEC when provisioning access to poles, ducts, conduits and rights of way. Qwest shall not give itself preference when assigning space.

10.8.2.1 Subject to the provisions of this Agreement, Qwest agrees to issue to CLEC authorization for CLEC to attach, operate, maintain, rearrange, transfer and remove at its sole expense its facilities on Poles/Duct/Innerduct or ROW owned or controlled in whole or in part by Qwest, subject to Orders placed by CLEC. Any and all rights granted to CLEC shall be subject to and subordinate to any future local, state and/or federal requirements.

10.8.2.2 Qwest will rely on such codes as the National Electrical Safety Code (NESC) to prescribe standards with respect to capacity, safety, reliability, and general engineering principles.

10.8.2.3 Federal requirements, such as those imposed by Federal Energy Regulatory Commission (FERC) and Occupational Safety and Health Administration (OSHA), will continue to apply to the extent such requirements affect requests for attachments or occupancy to Qwest facilities under Section 224(f)(1) of the Act.

10.8.2.4 CLEC shall provide access to a map of the requested Poles/Duct/Innerduct/ROW route, including estimated distances between major

points, the identification and location of the Poles/Duct/Innerduct and ROW and a description of CLEC's facilities. Qwest agrees to provide to CLEC access to relevant plats, maps, engineering records and other data within ten (10) business days of receiving a bona fide request for such information, except in the case of when extensive requests. Extensive requests involve the gathering of plats from multiple locations more than one (1) location, span more than five (5) Wire Centers, or consist of ten (10) or more intra-Wire Center requests submitted simultaneously. Responses to extensive requests will be provided within a reasonable interval, not to exceed sixty (60) calendar days.

10.8.2.5 Except as expressly provided herein, or in the Pole Attachment Act of 1934 as amended and its regulations and rules, or in any applicable state or municipal laws, nothing herein shall be construed to compel Qwest to construct, install, modify or place any Poles/Duct/Innerduct or other facility for use by CLEC.

10.8.2.6 Qwest retains the right to determine the availability of space on Poles/Duct/Innerduct, conduit and ROW consistent with 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224. In the event Qwest determines that rearrangement of the existing facilities on Poles, Innerduct, duct/conduit and ROW is required before CLEC's facilities can be accommodated, the actual cost of such modification will be included in CLEC's nonrecurring charges for the associated Order ("Make-Ready fee"). When modifications to a Qwest spare duct/conduit include the placement of Innerduct, Qwest or CLEC will install the number of Innerduct required to fill the duct/conduit to its full capacity.

10.8.2.7 Qwest shall make manhole ingress and egress for Duct/Innerduct access available to CLEC. Qwest will perform a feasibility study to determine whether to provide a stub out via the pre-constructed knock out within the manhole, or to perform a core drill of the manhole.

10.8.2.8 Where such authority does not already exist, CLEC shall be responsible for obtaining the necessary legal authority to occupy ROW, and/or Poles/Duct/Innerduct on governmental, federal, Native American, and private rights of way. CLEC shall obtain any permits, licenses, bonds, or other necessary legal authority and permission, at CLEC's sole expense, in order to perform its obligations under this Agreement. CLEC shall contact all owners of public and private rights-of-way to obtain the permission required to perform the work prior to entering the property or starting any work thereon. See Section 10.8.4. CLEC shall comply with all conditions of rights-of-way and permits. Once such permission is obtained, all such work may be performed by Qwest or CLEC at the option of CLEC.

10.8.2.9 Access to a Qwest Central Office manhole will be permitted where technically feasible. If space is available, Qwest will allow access through the Central Office manhole to the POI (Point of Interconnection). There shall be a presumption that there shall be no fiber splices allowed in the Central Office manhole. However, where CLEC can establish the necessity and technical feasibility of splicing in the Central Office Manhole, such action shall be permitted.

10.8.2.10 Replacement/Modification/Installation - If CLEC requests Qwest to replace or modify existing Poles/Duct/Innerduct to increase its strength or capacity for the sole benefit of CLEC, CLEC shall pay Qwest the total actual replacement cost, Qwest's actual cost to transfer its attachments to new Poles/Duct/Innerduct, as necessary, and the actual cost for removal (including actual cost of destruction) of the replaced Poles/Duct/Innerduct, if necessary. Ownership of new Poles/Duct/Innerduct shall vest to Qwest.

10.8.2.10.1 Upon request, Qwest shall permit CLEC to install Qwest Poles/Duct/Innerduct. Qwest reserves the right to reject any non-conforming replacement Pole/Duct/Conduit installed by CLEC that do not conform to the NESC, OSHA or local ordinances.

10.8.2.10.2 To the extent that a modification is incurred for the benefit of multiple parties, CLEC shall pay a proportionate share of the total actual cost based on the ratio of the amount of new space occupied by the facilities of CLEC to the total amount of space occupied by all parties including Qwest or its affiliates participating in the modification. Parties who do not initiate, request or receive additional space from a modification, are not required to share in the cost of the modification. CLEC, Qwest or any other party that uses a modification as an opportunity to bring its facilities into compliance with applicable safety or other requirements will be deemed to be sharing in the modification and will be responsible for its share of the modification cost. Attaching entities will not be responsible for sharing in the cost of governmentally mandated pole or other facility modification. ~~Qwest does not and will not favor itself over other carriers when provisioning access to poles, innerduct and rights-of-way. AT&T has not agreed to the deletion of this language.~~

10.8.2.10.3 The modifying party or parties may recover a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. The proportionate share of the subsequent attacher will be reduced to take account of depreciation to the pole or other facility that has occurred since the modification. The modifying party or parties seeking to recover modification costs from parties that later obtain attachments shall be responsible for maintaining all records regarding modification costs. Qwest shall not be responsible for maintaining records regarding modification costs on behalf of attaching entities.

10.8.2.11 Notification of modifications initiated by or on behalf of Qwest and at Qwest's expense shall be provided to CLEC at least sixty (60) calendar days prior to beginning modifications. Such notification shall include a brief description of the nature and scope of the modification. If CLEC does not respond to a requested rearrangement of its facilities within sixty (60) days after receipt of written notice from Qwest requesting rearrangement, Qwest may perform or have performed such rearrangement and CLEC shall pay the actual cost thereof. No such notice shall be required in emergency situations or for routine maintenance of Poles/Duct/Innerduct completed at Qwest's expense.

10.8.2.12 Qwest reserves the right to make an on-site/final construction inspection of CLEC's facilities occupying the Poles/Duct/Innerduct system. CLEC shall reimburse Qwest for the actual cost of such inspections except where specified in this Section.

10.8.2.13 When final construction inspection by Qwest has been completed, CLEC shall correct such non-complying conditions within the reasonable period of time specified by Qwest in its written notice. If corrections are not completed within the specified reasonable period, occupancy authorizations for the ROW, Poles/Duct/Innerduct system where non-complying conditions remain uncorrected shall suspend forthwith, regardless of whether CLEC has energized the facilities occupying said Poles/Duct/Innerduct or ROW system and CLEC shall remove its facilities from said Poles/Duct/Innerduct or ROW in accordance with the provisions of this Section, provided, however, if the corrections physically cannot be made within such specified time, and CLEC has been diligently prosecuting such cure, CLEC shall be granted a reasonable additional time to complete such cure. Qwest may deny further occupancy authorization to CLEC until such non-complying conditions are corrected or until CLEC's facilities are removed from the Poles/Duct/Innerduct system where such non-complying conditions exist. If agreed between both Parties, Qwest shall perform or have performed such corrections and CLEC shall pay Qwest the actual cost of performing such work. Subsequent inspections to determine if appropriate corrective actions have been taken may be made by Qwest.

10.8.2.14 Once CLEC's facilities begin occupying the Poles/Duct/Innerduct or ROW system, Qwest may perform a reasonable number of inspections. Qwest shall bear the cost of such inspections unless the results of the inspection reveal any-a material violation or hazard, or that CLEC has in any other way failed to comply with the provisions of Section 10.8.2.20~~this Agreement~~; in which case CLEC shall reimburse Qwest the costs of inspections and re-inspections, as required. CLEC's representative may accompany Qwest on such field inspections. The cost of periodic inspection or any special inspections found necessary due to the existence of sub-standard or unauthorized occupancies shall be billed separately.

10.8.2.15 The costs of inspections made during construction and/or the final construction survey and subsequent inspection shall be billed to CLEC upon completion of the inspections.

10.8.2.16 Final construction, subsequent, and periodic inspections or the failure to make such inspections, shall not ~~impose any liability of any kind upon Qwest nor~~ relieve CLEC of any responsibilities, obligations, or liability assigned under this Agreement.

10.8.2.17 CLEC may use individual workers of its choice to perform any work necessary for the attaching of its facilities so long as such workers have the same qualifications and training as Qwest's workers. CLEC may use any contractor approved by Qwest to perform Make-Ready Work.

10.8.2.18 If Qwest terminates an ~~order~~ Order for cause, or if CLEC terminates an ~~order~~ Order without cause, subject to 10.8.4.54, CLEC shall pay

termination charges equal to the amount of fees and charges remaining on the terminated ~~order~~Order(s) and shall remove its facilities from the Poles/Innerduct within sixty (60) calendar days, or cause Qwest to remove its facilities from the Poles/Duct/Innerduct at CLEC's expense; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's facilities are physically removed. "Cause" as used herein shall include ~~but not be limited to~~ CLEC's use of its facilities in material violation of any applicable law or in aid of any unlawful act or making an unauthorized modification to Qwest's Poles/Duct/Innerduct.

10.8.2.19 Qwest may abandon or sell any Poles/Innerduct, duct/conduit or ROW at any time by giving written notice to CLEC. Any Poles, Innerduct, duct/conduit or ROW that is sold, will be sold subject to all existing legal rights of CLEC. Upon abandonment of Poles/Innerduct, duct/conduit or ROW, and with the concurrence of the other joint user(s), if necessary, CLEC shall, within sixty (60) calendar days of such notice, either: 1) continue to occupy the Poles/Innerduct, duct/conduit or ROW pursuant to its existing rights under this Agreement if the Poles/Innerduct, duct/conduit, or ROW is purchased by another party; 2) purchase the Poles/Innerduct, duct/conduit or ROW from Qwest at the current market value; or 3) remove its facilities therefrom. Failure to explicitly elect one of the foregoing options within sixty (60) calendar days shall be deemed an election to purchase the Poles/Innerduct, duct/conduit or ROW at the current market value if no other party purchased the Poles/Innerduct, duct/conduit or ROW within this sixty (60) day period.

10.8.2.20 CLEC's facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated by reference, and any governing authority having jurisdiction. Where a difference in specifications exists, the more stringent shall apply. Notwithstanding the foregoing, CLEC shall only be held to such standard as Qwest, its Affiliates or any other Telecommunications Carrier is held. Failure to maintain facilities in accordance with the above requirements or failure to correct as provided in Section 10.8.2.13 shall be cause for termination of the Order. ~~Qwest's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate Qwest premises~~ CLEC's standard maintenance practices for facilities shall be made available to Qwest upon request. CLEC shall in a timely manner comply with all requests from Qwest to bring its facilities into compliance with these terms and conditions.

10.8.2.21 Should Qwest under the provisions of this Agreement remove CLEC's facilities from the Poles/Duct/Innerduct covered by any Order, Qwest will deliver the facilities removed upon payment by CLEC of the cost of removal, storage and delivery, and all other amounts due Qwest. If CLEC removes facilities from Poles/Duct/Innerduct for other than repair or maintenance purposes, no replacement on the Poles/Duct/Innerduct shall be made until all outstanding charges due Qwest for previous occupancy have been paid in full. CLEC shall advise Qwest in writing as to the date on which the removal of facilities from the Poles/Duct/Innerduct has been completed.

10.8.2.22 If any facilities are found attached to Poles/Duct/Innerduct for which no order is in effect, Qwest, without prejudice to its other rights or remedies under this Agreement, may assess a charge and CLEC agrees to pay a charge of \$200.00 per Pole or \$200 per innerduct run between two manholes, plus payment as specified in this Section. Qwest shall waive the unauthorized attachment fee if the following conditions are both met: (1) CLEC cures such unauthorized attachment (by removing it or submitting a valid Order for attachment in the form of Attachment 2 of Exhibit D, within thirty (30) days of written notification from Qwest of the unauthorized attachment; and (2) the unauthorized attachment did not require Qwest to take curative measures itself (e.g., pulling additional innerduct) prior to the cure by CLEC. Qwest shall also waive the unauthorized attachment fee if the unauthorized attachment arose due to error by Qwest rather than by CLEC. CLEC is required to submit in writing, within ten (10) business days after receipt of written notification from Qwest of the unauthorized occupancy, a Poles/Duct/Innerduct application. If such application is not received by Qwest within the specified time period, CLEC will be required to remove its unauthorized facility within thirty (30) calendar days of the final date for submitting the required application, or Qwest may remove CLEC's facilities without liability, and the cost of such removal shall be borne by CLEC.

10.8.2.23 No act or failure to act by Qwest with regard to an unauthorized occupancy shall be deemed as the authorization of the occupancy. Any subsequently issued authorization shall not operate retroactively or constitute a waiver by Qwest of any of its rights or privileges under this Agreement or otherwise. CLEC shall be subject to all liabilities of the Agreement in regard to said unauthorized occupancy from its inception.

10.8.2.24 Qwest will provide CLEC non-discriminatory access to poles, ducts, conduits and ROW pursuant to 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224. In the event of a conflict between this SGAT, on one hand, and 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224, on the other, 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224 shall govern. Further, in the event of a conflict between Exhibit D, on one hand, and this SGAT or 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224, on the other, this SGAT or 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224 shall govern, provided however, that any Access Agreement that has been duly executed (and, in cases where the underlying ROW agreement was recorded in the real property records for the county in which the ROW is located, acknowledged and recorded in the real property records for the county in which the ROW is located) shall govern in any event pursuant to its terms.

10.8.2.25 Nothing in this SGAT shall require Qwest to exercise eminent domain on behalf of CLEC.

10.8.2.26 Upon CLEC request, Qwest will certify to a landowner with whom Qwest has an ROW agreement, the following:

10.8.2.26.1 that the ROW agreement with Qwest does not preclude the

landowner from entering into a separate ROW agreement with CLEC;
and

10.8.2.26.2 that there will be no penalty under the agreement between
the landowner and Qwest if the landowner enters into a ROW
agreement with CLEC.

10.8.3 Rate Elements

Qwest fees for attachments are in accordance with Section 224 of the Act and FCC orders, rules and regulations promulgated thereunder, as well as the rates established by the Commission including the following rates, are reflected in Exhibit A.

10.8.3.1 Inquiry Fee. A non-refundable pre-paid charge used to recover the costs associated with performing an internal record review to determine if a requested route and/or facility is available, ~~for lease, or with respect to ROW, to~~ determine the information necessary to create the ROW Matrix, which identifies, for each ROW, the name of the original grantor and the nature of the ROW(i.e., publicly recorded and non-recorded)(e.g. easement, lease, etc.) and the MDU Matrix, which identifies each requested legal agreement between Qwest and a third party who has a multi-unit building in Qwest's possession that relates to Telecommunications Services provided to or through real property owned by the third party (MDU Agreement) and, for each such MDU Agreement, the name of the third party. Separate Inquiry Fees apply for poles and for innerduct.

10.8.3.2 Field Verification Fee. A non-refundable pre-paid charge which recovers the estimated actual costs for a field survey verification required for a route and to determine scope of any required Make-Ready work. The estimated pre-paid fee shall be billed in advance. Separate Field Verification Fees apply for poles and for manholes.

10.8.3.3 Make-Ready Work. A pre-paid non-refundable (other than true-up) charge which recovers the cost of necessary work required to make the requested facility available for lease. For innerduct leases, this could include, but is not limited to, the placing of innerduct in conduit/duct systems or core drilling of manholes. For pole attachment requests, this could include, but is not limited to, the replacement of poles to meet required clearances over roads or land. The estimated pre-paid fee shall be billed in advance.

10.8.3.4 Pole Attachment Fee. A fee which is charged for the occupancy, including any Make-Ready period, of one foot of pole space (except for antenna attachment which requires two feet). This fee shall be annual unless CLEC requests that it be semi-annual.

10.8.3.5 Innerduct Occupancy Fee. A fee which is charged for the occupancy, including any Make-Ready period, of an innerduct on a per foot basis. This fee shall be annual unless CLEC requests that it be semi-annual.

10.8.4 Ordering

~~The Ordering Process~~ There are two (2) ~~has distinct steps required before placing an Order for access to ROW, Duct/Innerduct and Pole Attachment~~for ROW, Innerduct and Pole Attachment: Inquiry Review and Field Verification.

10.8.4.1 Inquiry Reviews. Upon receipt of an inquiry regarding request for ROW access, Pole Attachment or Duct/Innerduct Occupancy, Qwest will provide CLEC with a document of General Information for Pole Attachment and Innerduct Occupancy along with a description of the application processExhibit D. The CLEC will review the documents and provide Qwest with maps of the desired area indicating the routes and entrance points for proposed attachment ~~or,~~ proposed occupancy or proposed CLEC construction on Qwest owned or controlled Poles, Duct/Innerduct and ROW as well as the street addresses of any multi-unit buildings upon or through which CLEC proposes construction on ROW owned or controlled by Qwest. The CLEC will include the appropriate Inquiry Fee with a completed Attachment 1.A from Exhibit D.its inquiry.

10.8.4.2 ~~——~~ Inquiry Reviews

10.8.4.1.1a) Inquiry Review — Duct/Conduit/Innerduct. Qwest will complete the database inquiry and prepare a duct/conduit structure diagram (referred to as a "Flatline") which shows distances and access points (such as manholes). Along with the Flatline will be estimated costs for field verification of available facilities. These materials will be provided to the CLEC within ten (10) calendar days or within the time frames of the applicable federal or state law, rule or regulation. This time frame is applicable to the standard inquiry of thirty (30) Utility Holes or fewer. An inquiry which exceeds the standard will have negotiated completion dates.

b)10.8.4.1.2 Inquiry Review – Poles. Qwest will provide the name and contact number for the appropriate local field engineer for joint validation of the poles and route and estimated costs for field verification on Attachment 1.B of Exhibit D within ten (10) calendar days of the request. ~~The Qwest field engineer will be informed of CLEC's needs and will report back on the number of poles, pole condition and Make-Ready work, if desired. A statement of the Make-Ready costs, number of poles and lease rates will be provided to CLEC within thirty-five (35) calendar days of the completion of the joint survey when 100 or fewer poles are involved. The Pole quotation shall be valid for ninety (90) calendar days. Qwest will charge CLEC for field engineer time.~~

10.8.4.1.3 Inquiry Review – ROW. Qwest shall, upon request of CLEC, provide the ROW Matrix, the MDU Matrix and a copy of all publicly recorded agreements listed in those Matrices to the CLEC within ten (10) days of the request. Qwest will provide to CLEC a copy of agreements listed in the Matrices that have not been publicly recorded if and only if CLEC obtains authorization for such disclosure from the third party owner(s) of the real property at issue by an executed version of either the Consent to Disclosure form or the Consent Regarding Access Agreement

form, both of which are included in Exhibit D, Attachment 4. Qwest may redact all dollar figures from copies of agreements listed in the Matrices that have not been publicly recorded that Qwest provides to CLEC. Any dispute over whether terms have been redacted appropriately shall be resolved pursuant to the dispute resolution procedures set forth in this Agreement. Qwest makes no warranties concerning the accuracy of the information provided to CLEC; CLEC expressly acknowledges that Qwest's files contain only the original ROW instruments, and that the current owner(s) of the fee estate may not be the party identified in the document provided by Qwest.

10.8.4.32 Request – Innerduct. CLEC will review the Inquiry results and determine whether to proceed with verification. If desired, CLEC will sign and return Attachment 1 of the General Information document along with a check for the estimated verification costs. Upon payment of the estimated verification costs, Qwest will provide the requested information which may or may not include the following as appropriate: a review of public and internal right-of-way records for restrictions and to identify to CLEC what additional right-of-way permission is required; a field survey and site investigation of the Innerduct, including the preparation of distances and drawings, to determine availability of existing Innerduct; identification of Make-ready costs required to provide Innerduct; the schedule in which the Make-ready work will be completed; and, the annual recurring prices associated with the attachment of facilities. Such estimates shall be provided on Attachment 2 of the General Information document and shall be completed within thirty-five (35) calendar days for a standard inquiry of Thirty (30) Utility Hole sections or less, or as negotiated between Qwest and CLEC identified in the Cost Quotation.

Field Verification – Poles Duct/Innerduct and Access Agreement Preparation (ROW). CLEC will review the Inquiry results and determine whether to proceed with field verification for Poles/Ducts or Access Agreement preparation for ROW. If field verification or Access Agreement preparation is desired, CLEC will sign and return Attachment 1.B of Exhibit D along with a check for the relevant verification fee (Field Verification Fee or Access Agreement Preparation Fee) plus \$10.00 per Access Agreement as consideration for the Access Agreement. Upon payment of the relevant fee and Access Agreement consideration, if applicable, Qwest will provide, as applicable: depending on whether the request is for Poles, Duct/Innerduct or ROW: (a) in the case of Poles or innerduct/duct/conduit, a field survey and site investigation of the Poles or innerduct/duct/conduit, including the preparation of distances and drawings, to determine availability of existing Poles/innerduct/duct/conduit; identification of Make-Ready costs required to provide space; the schedule in which the Make-Ready work will be completed; and, the annual recurring prices associated with the attachment of facilities; (b) in the case of ROW, the completed Access Agreement(s), executed and acknowledged by Qwest. Upon completion of the Access Agreement(s) by CLEC, in accordance with the instructions, terms and conditions set forth in Exhibit D, the Access Agreement becomes effective to convey the interest identified in the Access Agreement (if any). Any dispute regarding whether a legal agreement conveys a ROW shall be resolved between CLEC and the relevant third party or parties, and such disputes shall not involve

Qwest; and/or (c) In the case of Poles or Duct/Innerduct, estimates of Make-Ready costs and the annual recurring prices associated with the attachment of facilities shall be provided on Attachment 2 of Exhibit D and shall be completed according to the schedule in Exhibit D at paragraph 2.2. The Attachment 2 quotation shall be valid for ninety (90) calendar days.

10.8.4.2.1 CLEC-Performed Field Verification. At the option of CLEC, it may perform its own field verification (in lieu of Qwest performing same) with the following stipulations: 1) Verifications will be conducted by a Qwest approved contractor; 2) A Qwest contractor will monitor the activity of CLEC contractor and a current labor rate will be charged to CLEC; 3) CLEC will provide Qwest with a legible copy of manhole butterfly drawings that reflect necessary Make-Ready effort; and 4) Qwest will use the CLEC-provided butterfly drawings and documentation to check against existing jobs and provide a final field report of available Duct/Innerduct. CLEC will be charged standard rates for Tactical Planner time.

~~10.8.4.43 Order – Poles and Duct/Innerduct. Upon completion of the procedures described above, Qwest shall provide CLEC a statement of Make-Ready costs and yearly (unless CLEC requests semi-annual) lease rates. The review, signing and return of Attachment 2 of the General Information Document along with payment of the Make-Ready and prorated lease-recurring access charges for the current relevant period (annual or semi-annual) shall be accepted as an Order for the attachment or occupancy. Upon receipt of the accepted Order from CLEC and applicable payment for the Make-Ready fees identified, Qwest will assign CLEC's the requested space and complete the commence any Make-Ready work which may be required. Qwest will notify CLEC when Poles/Duct/Innerduct are ready for attachment of facilities.~~

~~10.8.4.54 Make-Ready - Estimates of Make-Ready in the Order are used to cover actual Make-Ready costs.~~

10.8.4.4.1 However, if Qwest requests, CLEC will be responsible for payment of the actual Make-Ready costs determined if such costs exceed the estimate. Such payment shall be made within thirty (30) days of receipt of an invoice for the costs that exceed the estimate

10.8.4.4.2 Within fifteen (15) business days of a request therefor, Qwest will provide CLEC copies of records reflecting actual cost of Make-Ready work; provided, however, that, if Qwest does not possess all such records at the time of the request, then Qwest will provide copies of such records within fifteen (15) business days of receipt of such records. CLEC must request such records, if at all, within thirty-sixty (30/60) calendar days after written notification of the completion of the Make-Ready work of the completion of Make-Ready work. If the actual Make-Ready costs are less than the estimate, an appropriate credit for the difference will be issued upon request therefor. Such request must be received within sixty (60) calendar days following CLEC's receipt of copies of records if CLEC has requested records under this paragraph, or within thirty (30) calendar days of the completion of Make-Ready work if

~~CLEC has not requested records under this paragraph. Such credit will issue within ten (10) business days of Qwest's receipt of either all records related to such actual costs or CLEC's request for credit, whichever comes last. If Qwest denies the Poles/Innerduct, ROW request, Qwest shall do so in writing, within forty-five (45) days following the request, specifying the reasons for denial along with all relevant evidence and supporting information and will also refund the difference between the actual Make-Ready costs incurred and those prepaid by CLEC, if any, upon request. Such request must be made within thirty (30) calendar days of CLEC's receipt of written denial. Any such refund shall be made within ten (10) business days of either receipt of CLEC's request or Qwest's receipt of all records relating to the actual costs, whichever comes last.~~

10.8.4.4.3 If the actual Make-Ready costs are less than the estimate, an appropriate credit for the difference will be issued upon request. Such request must be received within sixty (60) calendar days following CLEC's receipt of copies of records if CLEC has requested records under this paragraph, or within sixty (60) calendar days after written notification of the completion of Make-Ready work if CLEC has not requested records under this paragraph. Such credit will issue within ten (10) business days of Qwest's receipt of either all records related to such actual costs or CLEC's request for credit, whichever comes last, but in no event later than ninety (90) calendar days following the request for credit.

10.8.4.4.4 If CLEC cancels or if, due to circumstances unforeseen during inquiry/verification, Qwest denies the request for Poles, Ducts or ROW, upon CLEC request, Qwest will also refund the difference between the actual Make-Ready costs incurred and those prepaid by CLEC, if any. Such request must be made within thirty (30) calendar days of CLEC's receipt of written denial or notification of cancellation. Any such refund shall be made within ten (10) business days of either receipt of CLEC's request or Qwest's receipt of all records relating to the actual costs, whichever comes last, but in no event later than ninety (90) calendar days following the denial.

10.8.4.5 Reserved for future use.

10.8.4.6 For the period beginning at the time of the making of a granted inquiry and ending ninety (90) days following the grant of an inquiry, Qwest shall reserve such available poles, ducts, conduit, and right of way for CLEC that CLEC may reasonably request. CLEC shall pay an appropriate reservation fee mutually agreed upon by the Parties for such reservation and shall elect whether to accept the poles, ducts, conduits, or right of way within the ninety (90) day period following the granting of the inquiry. CLEC may accept such facilities by sending written notice to Qwest.

10.8.4.6.1 During the reservation period, if another party, including Qwest, makes a bona fide and good faith request for the use of any poles, ducts, conduits or right of way that CLEC has previously reserved, CLEC shall have a "right of first refusal" over these facilities. If CLEC

chooses to exercise its right of first refusal, it shall do so by providing Qwest written notice of same within twenty (20) business days following receipt of written notice from Qwest advising CLEC of the bona fide and good faith request.

10.8.4.6.2 To ensure proper use of reserved facilities, after the expiration of the reservation period or upon exercise of its right of first refusal, whichever occurs earlier, CLEC must begin paying the rates for access (whether or not it has actually installed or attached facilities) and shall begin construction on the facility within six (6) months or release its reservation.

10.8.4.6.3 After acceptance by CLEC, CLEC shall have six (6) months to begin attachment and/or installation of its facilities to the poles, ducts, conduit and right of way or request Qwest to begin Make Ready or other construction activities. Any such construction, installation or Make Ready by CLEC shall be completed by the end of one (1) year after written notice of acceptance. CLEC shall not be in default of the six month or one-year requirement above if such default is caused in any way by any action, inaction or delay on the part of Qwest or its affiliates or subsidiaries.

10.8.5 Billing

CLEC agrees to pay Qwest ~~Poles/Innerduct preparation charges in advance and use of the following fees ("Fees")~~ in advance as specified in the Request and Order (Attachment 1.A, 1.B, 4 and Attachment 2 of the General Information Document) Exhibit D: Inquiry Fee, Field Verification Fee, Make Ready Fee, Pole Attachment Fee, and Innerduct Occupancy Fee and Access Agreement Consideration. ~~Make Ready Fees~~ will be computed in compliance with applicable local, state and federal guidelines. Such ~~Usage Fees~~ fees for Poles/Duct/Innerduct (i.e., Pole Attachment Fee and Duct/Innerduct Occupancy Fee) will be assessed on an annual basis (unless CLEC requests a semi-annual basis). Annual usage fees for Poles/Duct/Innerduct will be assessed as of January 1 of each year. Semi-annual usage fees for Poles/Duct/Innerduct will be assessed as of January 1 and July 1 of each year. ~~Such All Fees~~ fees shall be paid within thirty (30) days following receipt of invoices therefor. ~~All Fees~~ fees are not refundable except as expressly provided herein.

10.8.6 Maintenance and Repair

In the event of any service outage affecting both Qwest and CLEC, repairs shall be effectuated on a non-discriminatory basis as established by local, state or federal requirements. Where such requirements do not exist, repairs shall be made in the following order: electrical, telephone (EAS/local), telephone (long distance), and cable television, or as mutually agreed to by the users of the affected Poles/Duct/Innerduct.

10.8 Access to Poles, Ducts, Conduits, and Rights of Way

10.8.1 Description

10.8.1.1 Pole Attachments – Where it has ownership or control to do so, Each Party Qwest will provide CLEC with the other with access to available pole attachment space for the placing of facilities for the purpose of transmitting Telecommunications Services.

10.8.1.1.1 The term Pole Attachment means any attachment by a CLEC to a pole owned or controlled by Qwest.

10.8.1.2 Ducts and Conduits – Where it has ownership or control to do so, Qwest – Each Party will provide the other CLEC with access to available underground ducts/conduits for the purpose of placing facilities for transmitting Telecommunications Services. A spare duct/conduit will be leased for copper facilities only, and an innerduct for the purpose of placing fiber. CLEC may place innerduct in an empty duct/conduit. Control of CLEC-installed spare innerduct shall vest in Qwest immediately upon installation; ownership of such innerduct shall vest to Qwest if and when CLEC abandons such innerduct. Duct and conduit may follow streets, bridges, public or private right-of-ways or may be within some portion of a multi-unit building. Within a multi-unit building, duct/conduit may traverse building entrance facilities, building entrance links, equipment rooms, remote terminals, cable vaults, telephone closets or building riser.

10.8.1.2.1 The terms Duct and Conduit mean a single enclosed raceway for conductors, cable and/or wire. Duct and conduit may be in the ground, may follow streets, bridges, public or private ROW or may be within some portion of a multi-unit building. Within a multi-unit building, duct and conduit may traverse building entrance facilities, building entrance links, equipment rooms, remote terminals, cable vaults, telephone closets or building riser. The terms Duct and Conduit include riser conduit.

10.8.1.2.2 The term Conduit means a pipe placed in the ground in which cables and/or wires may be installed.

10.8.1.2.2 The term Innerduct means a duct-like raceway smaller than a duct/conduit that is inserted into a duct/conduit so that the duct may typically carry three cables.

10.8.1.3 Rights of Way (ROW) – Where it has ownership or control to do so, each Party Qwest will provide to CLEC, via a Quitclaim without warranty an Access Agreement in the form of Attachment 4 to Exhibit D, to the other access to available ROW for the purpose of placing telecommunications facilities for transmitting Telecommunication Services. ROW includes land or other property

owned or controlled by Qwest and may run under, on, above, across, along or through public or private property or enter multi-unit buildings.

10.8.1.3.1 ROW means a real property interest in privately-owned real property, but expressly excluding any public, governmental, federal or Native American, or other quasi-public or non-private lands, sufficient to permit Qwest to place telecommunications facilities on such real property; such property owner may permit Qwest to install and maintain facilities under, on, above, across, along or through private property or enter multi-unit buildings. Within a multi-unit building, a ROW includes a pathway that is actually used or has been specifically designated for use by Qwest as part of its transmission and distribution network where the boundaries of the pathway are clearly defined either by written specifications or unambiguous physical demarcation.

10.8.1.3.2 Requests by Qwest for ROW owned or controlled by CLEC shall be handled in a manner similar to that by which Qwest handles requests by CLEC for ROW owned or controlled by Qwest pursuant to this Agreement.

10.8.1.4 Reciprocity – The rights, benefits and obligations in this Section 10.8 are reciprocal. This Section 10.8 expressly specifies rights, benefits, and duties in the context of CLEC obtaining access to U S WEST's poles, ducts, conduit and ROW. However, in the context of U S WEST obtaining access to CLEC's poles, ducts, conduit, and ROW, CLEC shall have the duties, benefits, and rights expressly ascribed to U S WEST herein, and U S WEST shall have the duties, benefits, and rights expressly ascribed to CLEC herein. CLEC Duties – Pursuant to 47 U.S.C. Section 251 (b)(4), CLEC shall have the duty to afford access to the poles, ducts, conduits and rights-of-way of CLEC to on rates, terms, and conditions that are consistent with Section 224, and further, CLEC shall provide reasonable access to poles, ducts and conduits, and right of way when feasible and when access is necessary for to provide service as may be set forth in 47 U.S.C. §251(b)(4), applicable FCC orders and regulations or state rules.

10.8.1.5 The phrase "ownership or control to do so" means the legal right, as a matter of state law, to (i) convey an interest in real or personal property or (ii) to provide access to a third party and receive compensation for doing so.

10.8.2 Terms and Conditions

Qwest shall provide CLEC non-discriminatory access to poles, ducts, conduit and rights of way on terms and conditions found in the Revised Qwest Right of Way, Pole Attachment and/or Duct/Innerduct/Innerduct Occupancy General Information Document, U S WEST Pole and Attachment and/or Innerduct Occupancy General Terms and Conditions attached hereto as Exhibit D. Qwest will not favor itself over CLEC when provisioning access to

poles, ducts, conduits and rights of way. Qwest shall not give itself preference when assigning space.

10.8.2.1 Subject to the provisions of this Agreement, Qwest agrees to issue to CLEC authorization for CLEC to attach, operate, maintain, rearrange, transfer and remove at its sole expense its facilities on Poles/~~Duct/Innerduct/Innerduct~~ or ROW owned or controlled in whole or in part by Qwest, subject to Orders placed by CLEC. Any and all rights granted to CLEC shall be subject to and subordinate to any future local, state and/or federal requirements.

10.8.2.2 Qwest will rely on such codes as the National Electrical Safety Code (NEC) to prescribe standards with respect to capacity, safety, reliability, and general engineering principles.

10.8.2.3 Federal requirements, such as those imposed by Federal Energy Regulatory Commission (FERC) and Occupational Safety and Health Administration (OSHA), will continue to apply to the extent such requirements affect requests for attachments or occupancy to Qwest facilities under Section 224(f)(1) of the Act.

10.8.2.4 CLEC shall provide access to a map of the requested Poles/~~Duct/Innerduct/Innerduct~~/ROW route, including estimated distances between major points, the identification and location of the Poles/~~Duct/Innerduct/Innerduct~~ and ROW and a description of CLEC's facilities. Qwest agrees to provide to CLEC access to relevant plats, maps, engineering records and other data within ten (10) business days of receiving a bona fide request for such information, except in the case of when extensive requests. Extensive requests involve the gathering of plats from more than one (1) location, multiple locations, span multiple more than five (5) Wire Centers, or consist of ten (10) or more intra-Wire Center requests submitted simultaneously. Responses to extensive requests will be provided within a reasonable interval, not to exceed sixty (60) calendar days.

10.8.2.5 Except as expressly provided herein, or in the Pole Attachment Act of 1934 as amended and its regulations and rules, or in any applicable state or municipal laws, nothing herein shall be construed to compel Qwest to construct, install, modify or place any Poles/~~Duct/Innerduct/Innerduct~~ or other facility for use by CLEC.

10.8.2.6 Qwest retains the right to determine the availability of space on Poles/~~Duct/Innerduct/Innerduct~~, duct, conduit and ROW consistent with 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224. In the event Qwest determines that rearrangement of the existing facilities on Poles, ~~/Innerduct, duct/conduit~~ and ROW is required before CLEC's facilities can be accommodated, the actual cost of such modification will be included in CLEC's nonrecurring charges for the associated Order ("Make-Ready fee"). When modifications to a Qwest spare duct/conduit include the placement of

Innerduct, Qwest or CLEC will install the number of Innerduct required to fill the duct/conduit to its full capacity.

10.8.2.7 Qwest shall make manhole ingress and egress for Duct/Innerduct access available to CLEC. Qwest will perform a feasibility study to determine whether to provide a stub out via the pre-constructed knock out within the manhole, or to perform a core drill of the manhole.

10.8.2.8 Where such authority does not already exist, CLEC shall be responsible for obtaining the necessary legal authority to occupy ROW, and/or Poles/Duct/Innerduct on governmental, federal, Native American, and private rights of way. CLEC shall obtain any permits, licenses, bonds, or other necessary legal authority and permission, at CLEC's sole expense, in order to perform its obligations under this Agreement. CLEC shall contact all owners of public and private rights-of-way to obtain the permission required to perform the work prior to entering the property or starting any work thereon. See Section 10.8.4. CLEC shall comply with all conditions of rights-of-way and permits. Once such permission is obtained, all such work may be performed by Qwest or CLEC at the option of CLEC.

10.8.2.9 Access to a Qwest Central Office manhole will be permitted where technically feasible. If space is available, Qwest will allow access through the Central Office manhole to the POI (Point of Interconnection). There shall be a presumption that there shall be no fiber splices allowed in the Central Office manhole. However, where CLEC can establish the necessity and technical feasibility of splicing in the Central Office Manhole, such action shall be permitted.

10.8.2.10 Replacement/Modification/Installation - If CLEC requests Qwest to replace or modify existing Poles/Duct/Innerduct to increase its strength or capacity for the sole benefit of CLEC, CLEC shall pay Qwest the total actual replacement cost, Qwest's actual cost to transfer its attachments to new Poles/Duct/Innerduct, as necessary, and the actual cost for removal (including actual cost of destruction) of the replaced Poles/Duct/Innerduct, if necessary. Ownership of new Poles/Duct/Innerduct shall vest to Qwest.

10.8.2.10.1 Upon request, Qwest shall permit CLEC to install Poles/Duct/Innerduct. Qwest reserves the right to reject any non-conforming replacement Pole/duct/conduit installed by CLEC that do not conform to the NESC, OSHA or local ordinances.

10.8.2.10.2 To the extent that a modification is incurred for the benefit of multiple parties, CLEC shall pay a proportionate share of the total actual cost based on the ratio of the amount of new space occupied by the facilities of CLEC to the total amount of space occupied by all parties including Qwest or its affiliates participating in the modification. Parties who

do not initiate, request or receive additional space from a modification, are not required to share in the cost of the modification. CLEC, Qwest or any other party that uses a modification as an opportunity to bring its facilities into compliance with applicable safety or other requirements will be deemed to be sharing in the modification and will be responsible for its share of the modification cost. Attaching entities will not be responsible for sharing in the cost of governmentally mandated pole or other facility modification. ~~Qwest does not and will not favor itself over other carriers when provisioning access to poles, innerduct and rights-of-way.~~

10.8.2.10.3 The modifying party or parties may recover a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. The proportionate share of the subsequent attacher will be reduced to take account of depreciation to the pole or other facility that has occurred since the modification. The modifying party or parties seeking to recover modification costs from parties that later obtain attachments shall be responsible for maintaining all records regarding modification costs. Qwest shall not be responsible for maintaining records regarding modification costs on behalf of attaching entities.

10.8.2.11 Notification of modifications initiated by or on behalf of Qwest and at Qwest's expense shall be provided to CLEC at least sixty (60) calendar days prior to beginning modifications. Such notification shall include a brief description of the nature and scope of the modification. If CLEC does not respond to a requested rearrangement of its facilities within sixty (60) days after receipt of written notice from Qwest requesting rearrangement, Qwest may perform or have performed such rearrangement and CLEC shall pay the actual cost thereof. No such notice shall be required in emergency situations or for routine maintenance of Poles/~~Duct/InnerductInnerduct~~ completed at Qwest's expense.

10.8.2.12 Qwest reserves the right to make an on-site/final construction inspection of CLEC's facilities occupying the Poles/~~Duct/InnerductInnerduct~~ system. CLEC shall reimburse Qwest for the actual cost of such inspections except where specified in this Section.

10.8.2.13 When final construction inspection by Qwest has been completed, CLEC shall correct such non-complying conditions within the reasonable period of time specified by Qwest in its written notice. If corrections are not completed within the specified reasonable period, occupancy authorizations for the ROW, Poles/~~Duct/InnerductInnerduct~~ system where non-complying conditions remain uncorrected shall suspend forthwith, regardless of whether CLEC has energized the facilities occupying said Poles/~~Duct/InnerductInnerduct~~ or ROW system and CLEC shall remove its facilities from said Poles/~~Duct/InnerductInnerduct~~ or ROW in accordance with the provisions of this Section, provided, however, if the corrections physically cannot be made within such specified time, and CLEC has been diligently prosecuting such cure, CLEC shall be granted a reasonable

additional time to complete such cure. Qwest may deny further occupancy authorization to CLEC until such non-complying conditions are corrected or until CLEC's facilities are removed from the Poles/~~Duct/Innerduct/Innerduct~~ system where such non-complying conditions exist. If agreed between both Parties, Qwest shall perform or have performed such corrections and CLEC shall pay Qwest the actual cost of performing such work. Subsequent inspections to determine if appropriate corrective actions have been taken may be made by Qwest.

10.8.2.14 Once CLEC's facilities begin occupying the Poles/~~Duct/Innerduct/Innerduct~~ or ROW system, Qwest may perform a reasonable number of inspections. Qwest shall bear the cost of such inspections unless the results of the inspection reveal any a material violation or hazard, or that CLEC has in any other way failed to comply with the provisions of Section this Agreement 10.8.2.20; in which case CLEC shall reimburse Qwest the costs of inspections and re-inspections, as required. CLEC's representative may accompany Qwest on such field inspections. The cost of periodic inspection or any special inspections found necessary due to the existence of sub-standard or unauthorized occupancies shall be billed separately.

10.8.2.15 The costs of inspections made during construction and/or the final construction survey and subsequent inspection shall be billed to CLEC upon completion of the inspections.

10.8.2.16 Final construction, subsequent, and periodic inspections or the failure to make such inspections, shall not ~~impose any liability of any kind upon U.S. WEST nor~~ relieve CLEC of any responsibilities, obligations, or liability assigned under this Agreement.

10.8.2.17 CLEC may use individual workers of its choice to perform any work necessary for the attaching of its facilities so long as such workers have the same qualifications and training as Qwest's workers. CLEC may use any contractor approved by Qwest to perform Make-Ready Work.

10.8.2.18 If Qwest terminates an ~~Order~~ for cause, or if CLEC terminates an ~~Order~~ without cause, subject to 10.8.4.5, CLEC shall pay termination charges equal to the amount of fees and charges remaining on the terminated ~~Order(s)~~ and shall remove its facilities from the Poles/~~Duct/Innerduct/Innerduct~~ within sixty (60) calendar days, or cause Qwest to remove its facilities from the Poles/~~Duct/Innerduct/Innerduct~~ at CLEC's expense; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's facilities are physically removed. "Cause" as used herein shall include ~~but not be limited to~~ CLEC's use of its facilities in material violation of any applicable law or in aid of any unlawful act or making an unauthorized modification to Qwest's Poles/~~Duct/Innerduct/Innerduct~~, or, in the case of ROW, any act or omission that violates the terms and conditions of either (a) the Quitclaim Right of Access Agreement ("Quitclaim") by which Qwest

Quitclaim conveys a right of access to the ROW to CLEC, or (b) the instrument granting the original ROW to Qwest or its predecessor.

10.8.2.19 Qwest may abandon or sell any Poles/Innerduct, duct/conduit or ROW at any time by giving written notice to CLEC. Any Poles, Innerduct, duct/conduit or ROW that is sold, will be sold subject to all existing legal rights of CLEC. Upon abandonment of Poles/Innerduct, duct/conduit or ROW, and with the concurrence of the other joint user(s), if necessary, CLEC shall, within sixty (60) calendar days of such notice, either: 1) continue to occupy the Poles/Innerduct, duct/conduit or ROW pursuant to its existing rights under this Agreement if the Poles/Innerduct, duct/conduit, or ROW is purchased by another party; 2) purchase the Poles/Innerduct, duct/conduit or ROW from Qwest at the current market value; or 3) remove its facilities therefrom. Failure to explicitly elect one of the foregoing options within sixty (60) calendar days shall be deemed an election to purchase the Poles/Innerduct, duct/conduit or ROW at the current market value if no other party purchased the Poles/Innerduct, duct/conduit or ROW within this sixty (60) day period.

10.8.2.20 CLEC's facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated by reference, and any governing authority having jurisdiction. Where a difference in specifications exists, the more stringent shall apply. Notwithstanding the foregoing, CLEC shall only be held to such standard as Qwest, its Affiliates or any other Telecommunications Carrier is held. Failure to maintain facilities in accordance with the above requirements or failure to correct as provided in Section 10.8.2.13 shall be cause for termination of the Order. ~~U S WEST's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate U S WEST premises CLEC's standard maintenance practices for facilities shall be made available to U S WEST upon request.~~ CLEC shall in a timely manner comply with all requests from Qwest to bring its facilities into compliance with these terms and conditions.

10.8.2.21 Should Qwest under the provisions of this Agreement remove CLEC's facilities from the Poles/~~Duct/Innerduct~~ covered by any Order, Qwest will deliver the facilities removed upon payment by CLEC of the cost of removal, storage and delivery, and all other amounts due Qwest. If CLEC removes facilities from Poles/~~Duct/Innerduct~~ for other than repair or maintenance purposes, no replacement on the Poles/~~Duct/Innerduct~~ shall be made until all outstanding charges due Qwest for previous occupancy have been paid in full. CLEC shall advise Qwest in writing as to the date on which the removal of facilities from the Poles/~~Duct/Innerduct~~ has been completed.

10.8.2.22 If any facilities are found attached to Poles/Duct/Innerduct/Innerduct for which no order is in effect, Qwest, without prejudice to its other rights or remedies under this Agreement, may assess a charge and CLEC agrees to pay a charge of \$200.00 per Pole or \$200 per innerduct run between two manholes, plus payment as specified in this Section. Qwest shall waive half the unauthorized attachment fee if the following conditions are both met: (1) CLEC cures such unauthorized attachment (by removing it or submitting a valid Order for the attachment in the form of Attachment 2 of Exhibit D, within thirty (30) days of written notification from Qwest of the unauthorized attachment; and (2) the unauthorized attachment did not require Qwest to take curative measures itself (e.g., pulling additional innerduct) prior to cure by CLEC. Qwest shall also waive the unauthorized attachment fee if the unauthorized attachment arose due to error by Qwest rather than CLEC. ~~shall waive the unauthorized attachment fee if the following conditions are both met: (1) CLEC cures such unauthorized attachment (by removing it or submitting a valid Order for the attachment in the form of Attachment 2 of Exhibit D, within thirty (30) days of written notification from of the unauthorized attachment; and (2) the unauthorized attachment did not require to take curative measures itself (e.g., pulling additional innerduct) prior to cure by CLEC. shall also waive the unauthorized attachment fee if the unauthorized attachment arose due to error by rather than CLEC.~~ CLEC is required to submit in writing, within ten (10) business days after receipt of written notification from Qwest of the unauthorized occupancy, a Poles/Duct/Innerduct/Innerduct application. If such application is not received by Qwest within the specified time period, CLEC will be required to remove its unauthorized facility within thirty (30) calendar days of the final date for submitting the required application, or Qwest may remove CLEC's facilities without liability, and the cost of such removal shall be borne by CLEC.

10.8.2.23 No act or failure to act by Qwest with regard to an unauthorized occupancy shall be deemed as the authorization of the occupancy. Any subsequently issued authorization shall not operate retroactively or constitute a waiver by Qwest of any of its rights or privileges under this Agreement or otherwise. CLEC shall be subject to all liabilities of the Agreement in regard to said unauthorized occupancy from its inception.

10.8.2.24 Qwest will provide CLEC non-discriminatory access to poles, innerducts, ~~conduitducts/conduits~~ and ROW pursuant to 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224. In the event of a conflict between this SGAT, on one hand, and 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224, on the other, 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224 shall govern. Further, in the event of a conflict between Exhibit D/Attachment D, on one hand, and this SGAT or 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224, on the other, this SGAT or 47 USC § 224 and FCC orders, rules and regulations pursuant to 47 USC § 224 shall govern, provided however, that any Quitclaim Access Agreement that has been duly executed, acknowledged and recorded in the real property records for the county in which the ROW is located

shall govern in any event pursuant to its terms.

10.8.2.25 Nothing in this SGAT shall require Qwest to exercise eminent domain on behalf of CLEC.

10.8.2.26 Upon CLEC request, Qwest will certify to a landowner with whom Qwest has an ROW agreement, the following:

10.8.2.26.1 that the ROW agreement with Qwest does not preclude the landowner from entering into an separate ROW agreement with CLEC; and

10.8.2.26.2 that there will be no penalty under the agreement between the landowner and Qwest if the landowner enters into an ROW agreement with CLEC.

10.8.3 Rate Elements

Qwest fees for attachments are in accordance with Section 224 of the Act and FCC orders, rules and regulations promulgated thereunder, as well as the rates established by the Commission including the following rates, are reflected in Exhibit A.

10.8.3.1 Inquiry Fee. A non-refundable pre-paid charge used to recover the costs associated with performing an internal record review to determine if a requested route and/or facility is available ~~for lease, or with respect to ROW, to determine the information necessary to create the ROW Matrix, which identifies, for each ROW, the name of the original grantor and the nature of the ROW (i.e., publicly recorded and non-recorded) (e.g. easement, lease, etc.) and the MDU Matrix, which identifies each requested legal agreement between Qwest and a third party who has a multi-unit building in Qwest's possession that relates to Telecommunications~~ Telecommunications Services provided to or through real property owned by the third party (MDU Agreement) and, for each such MDU Agreement, the name of the third party. Separate Inquiry Fees apply for ROW, Poles and for ~~duct/conduit Conduit/Innerduct.~~

10.8.3.2 Field Verification Fee/~~Quitclaim~~ Access Agreement Preparation Fee. In the case of Poles and Duct/~~Innerduct~~ Innerduct, the Field Verification Fee is ~~a~~ A non-refundable pre-paid charge which recovers the estimated actual costs for a field survey verification required for a route and to determine scope of any required Make-Ready work. Separate Field Verification Fees apply for Poles and Manholes. In the case of ROW, the ~~Quitclaim~~ Access Agreement Preparation Fee is a non-refundable, pre-paid charge which recovers the estimated actual costs for preparation of the ~~Quitclaim~~ Access Agreement for each ROW requested by the CLEC. ~~The estimated pre-paid fee~~ Field Verification and ~~Quitclaim~~ Access Agreement Preparation Fees shall be billed in advance. ~~Separate Field Verification Fees apply for ROW, poles and for manholes.~~

10.8.3.3 Make-Ready WorkFee. A pre-paid non-refundable (other than true-up) charge which recovers the cost of necessary work required to make the requested facility/ROW available for leaseaccess. For innerduct leases, this could include, but is not limited to, the placing of innerduct in conduit/duct systems or core drilling of manholes. For pole attachment requests, this could include, but is not limited to, the replacement of poles to meet required clearances over roads or land. The estimated pre-paid fee shall be billed in advance. For ROW, this Make-Ready could include, but is not limited to, personnel time, including attorney time. With respect to ROW, Make-Ready work refers to legal or other investigation or analysis arising out of CLEC's failure to comply with the process described in Exhibit D for ROW, or other circumstances giving rise to such work beyond the simple preparation of one or more QuitclaimAccess Agreements. The estimated pre-paid fee shall be billed in advance.

10.8.3.4 Pole Attachment Fee. A pre-paid fee which is charged for the occupancy, including during any Make-Ready period, of one foot of pole space (except for antenna attachment which requires two feet). This fee shall be annual unless CLEC requests that it be semi-annual.

10.8.3.5 Innerduct Occupancy Fee. A pre-paid fee which is charged for the occupancy, including during any Make-Ready period, of an innerduct on a per foot basis. This fee shall be annual unless CLEC requests that it be semi-annual.

10.8.3.6 ROW Access FeeQuitclaimAccess Agreement Consideration. A pre-paid fee which constitutes consideration for Quitclaimingconveying access to the ROW to CLEC.is charged for the access, including during any Make-Ready period, to ROW. This fee shall be a one-time (i.e. non-recurring) fee.annual unless CLEC requests that it be semi-annual.

10.8.4 Ordering

The Ordering Process has There are two (2) distinct steps required before placing an Order for access to ROW, Duct/InnerductInnerduct and Pole Attachment: steps for ROW, Innerduct and Pole Attachment: Inquiry Review and Field Verification.

10.8.4.1 Inquiry Reviews. Upon receipt of an inquiry regarding request for ROW access, Pole Attachment or Duct/InnerductInnerduct Occupancy, Qwest will provide CLEC with a document of General Information for Pole Attachment and Innerduct Occupancy Exhibit D.along with a description of the application process. The CLEC will review the documents and provide Qwest with maps of the desired area indicating the routes and entrance points for proposed attachment, or proposed occupancy or proposed CLEC construction on Qwest owned or controlled Poles, Duct/InnerductInnerduct and ROW as well as the street addresses of any multi-unit buildings upon or through which CLEC proposes construction on ROW owned or controlled by Qwest. The CLEC will

include the appropriate Inquiry Fee with a completed Attachment 1.A from Exhibit D.~~its inquiry.~~

10.8.4.2 ~~_____~~ Inquiry Reviews

10.8.4.1.1a) ~~_____~~ Inquiry Review ~~_____~~
~~Innerduct~~Duct/Conduit/Innerduct. Qwest will complete the database inquiry and prepare a duct/conduitduct structure diagram (referred to as a "Flatline") which shows distances and access points (such as manholes). Along with the Flatline will be estimated costs for field verification of available facilities. These materials will be provided to the CLEC within ten (10) calendar days or within the time frames of the applicable federal or state law, rule or regulation. This time frame is applicable to the standard inquiry of thirty (30) Utility Holes or fewer. An inquiry which exceeds the standard will have negotiated completion dates.

10.8.4.1.2 ~~_____~~ b) ~~_____~~ Inquiry Review – Poles. Qwest will provide the name and contact number for the appropriate local field engineer for joint validation of the poles and route and estimated costs for field verification on Attachment 1.B of Exhibit D within ten (10) calendar days of the request. ~~The U S WEST~~This time frame is applicable to the standard inquiry of one hundred (100) poles or fewer. An inquiry which exceeds the standard will have negotiated completion dates. ~~field engineer will be informed of CLEC's needs and will report back on the number of poles, pole condition and Make-Ready work, if desired. A statement of the Make-Ready costs, number of poles and lease rates will be provided to CLEC within thirty-five (35) calendar days of the completion of the joint survey when 100 or fewer poles are involved. The Pole quotation shall be valid for ninety (90) calendar days. U S WEST will charge CLEC for field engineer time.~~

10.8.4.1.3 ~~_____~~ Inquiry Review – ROW. Qwest shall, upon request of CLEC, provide a copy of ROW agreements (e.g. easements and licenses) the ROW Matrix, the MDU Matrix and a copy of all publicly recorded agreements listed in those Matrices to the CLEC within forty-five (45) calendar days ~~ten (10) days of the request.~~ Qwest will provide to CLEC a copy of agreements listed in the Matrices that have not been publicly recorded if and only if CLEC obtains authorization for such disclosure from the third party owner(s) of the real property at issue by an executed version of either the Consent to Disclosure form or the Consent to ~~Quitclaim Right of~~Regarding Access Agreement form, both of which are included in Exhibit D, Attachment 4. Qwest may redact all dollar figures from copies of agreements listed in the Matrices that have

not been publicly recorded that Qwest provides to CLEC. Any dispute over whether terms have been redacted appropriately shall be resolved pursuant to the dispute resolution procedures set forth in this Agreement. Qwest makes no warranties concerning the accuracy of the information provided to CLEC; CLEC expressly acknowledges that Qwest's files contain only the original ROW instruments, and that the current owner(s) of the fee estate may not be the party identified in the document provided by Qwest.

10.8.4.32 Request — Innerduct/Field Verification — Poles Duct/InnerductDucts and QuitclaimAccess Agreement Preparation (ROW) and ROW. CLEC will review the Inquiry results and determine whether to proceed with field verification for Poles/Ducts or QuitclaimAccess Agreement preparation for ROW. If field verification or QuitclaimAccess Agreement preparation is desired, CLEC will sign and return Attachment 1.B of Exhibit D the General Information document along with a check for the relevant estimated verification costs fee (Field Verification Fee or QuitclaimAccess Agreement Preparation Fee) plus \$10.00 per QuitclaimAccess Agreement as consideration for the QuitclaimAccess Agreement. Upon payment of the relevant estimated verification costs fee and QuitclaimAccess Agreement consideration, if applicable, Qwest will provide, as applicable: depending on whether the request is for Poles, Duct/InnerductInnerduct Innerduct and ROW or ROW: — the requested information which may or may not include the following as appropriate: a review of public and internal right-of-way records for restrictions and to identify to CLEC what additional right-of-way permission is required and from whom; (a) in the case of Poles or innerduct/duct/conduitDuct, a field survey and site investigation of the Poles /Innerductor innerduct/duct/conduitDuct, including the preparation of distances and drawings, to determine availability of existing Poles/innerduct/duct/conduitInnerduct; identification of Make-Ready costs required to provide Innerductspace; the schedule in which the Make-Ready work will be completed; and, the annual recurring prices associated with the attachment of facilities; (b) in the case of ROW, the completedQuitclaimAccess Agreement(s), executed and acknowledged by Qwest. Upon completion of the QuitclaimAccess Agreement(s) by CLEC, in accordance with the instructions, terms and conditions set forth in Exhibit D, the QuitclaimAccess Agreement becomes effective to Quitclaimconvey the interest identified in the QuitclaimAccess Agreement (if any). Any dispute regarding whether a legal agreement conveys a ROW shall be resolved between CLEC and the relevant third party or parties, and such disputes shall not involve Qwest; and/or(c) In the case of Poles or Duct/Innerduct, estimates of Make-Ready costs and the annual recurring prices associated with the attachment of facilities. — Such estimates shall be provided on Attachment 2 of Exhibit D and shall be completed according to the schedule in Exhibit D at paragraph 2.2. of the General Information document and shall be completed within thirty-five(35) calendar days for a standard inquiry of Thirty (30) Utility Hole sections or less, or as negotiated between U S WEST and CLEC identified in the Cost Quotation. The Attachment 2 quotation shall be

valid for ninety (90) calendar days. U S WEST will charge CLEC for field engineer time.

10.8.4.2.1 CLEC-Performed Field Verification. At the option of CLEC, it may perform its own field verification (in lieu of Qwest performing same) with the following stipulations: 1) Verifications will be conducted by a Qwest approved contractor; 2) A Qwest contractor will monitor the activity of CLEC contractor and a current labor rate will be charged to CLEC; 3) CLEC will provide Qwest with a legible copy of manhole butterfly drawings that reflect necessary Make-Ready effort; and 4) Qwest will use the CLEC-provided butterfly drawings and documentation to check against existing jobs and provide a final field report of available Duct/Innerduct. CLEC will be charged standard rates for Tactical Planner time.

10.8.4.43 OrderOrder - Poles and ,and Innerduct Duct/InnerductDucts. and ROW. Upon completion of the procedures described above, U S WEST shall provide CLEC a statement of Make-Ready costs and yearly (unless CLEC requests semi-annual) lease rates. The review, signing and return of Attachment 2 of the General Information Document along with payment of the Make-Ready and prorated recurring accesslease charges for the current relevant period (annual or semi-annual) shall be accepted as an Order for the attachment or occupancy. Upon receipt of the accepted Order from CLEC and applicable payment for the Make-Ready fees identified, Qwest will assign theCLEC's requested space and commence anycomplete the Make-Ready work which may be required. Qwest will notify CLEC when Poles/Duct/InnerductInnerduct are ready. for attachment of facilities.

10.8.4.54 Make-Ready - Estimates of Make-Ready in the Order are used to cover actual Make-Ready costs.

10.8.4.4.1 However, if Qwest requests, CLEC will be responsible for payment of the actual Make-Ready costs determined if such costs exceed the estimate. Such payment shall be made within thirty (30) days of receipt of of an invoice for the costs that exceed the estimate.

10.8.4.4.2 Within fifteen (15) business days of a request therefor, Qwest will provide CLEC copies of records reflecting actual cost of Make-Ready work; provided, however, that, if Qwest does not possess all such records at the time of the request, then Qwest will provide copies of such records within fifteen (15) business days of receipt of such records. CLEC must request such records, if at all, within sixtythirty (3060) calendar days after written notification of the completion of the Make-Ready work. of the completion of Make-Ready work. If the

~~actual Make-Ready costs are less than the estimate, an appropriate credit for the difference will be issued upon request therefore. Such request must be received within sixty (60) calendar days following CLEC's receipt of copies of records if CLEC has requested records under this paragraph, or within thirty (30) calendar days of the completion of Make-Ready work if CLEC has not requested records under this paragraph. Such credit will issue within ten (10) business days of U S WEST's receipt of either all records related to such actual costs or CLEC's request for credit, whichever comes last. If U S WEST denies the Poles/Innerduct, ROW request, U S WEST shall do so in writing, within forty-five (45) days following the request, specifying the reasons for denial along with all relevant evidence and supporting information and Upon CLEC request, U S WEST will also refund the difference between the actual Make-Ready costs incurred and those prepaid by CLEC, if any, upon request. Such request must be made within thirty (30) calendar days of CLEC's receipt of written denial. Any such refund shall be made within ten (10) business days of either receipt of CLEC's request or U S WEST's receipt of all records relating to the actual costs, whichever comes last.~~

10.8.4.4.3 If the actual Make-Ready costs are less than the estimate, an appropriate credit for the difference will be issued upon request. Such request must be received within sixty (60) calendar days following CLEC's receipt of copies of records if CLEC has requested records under this paragraph, or within sixty (60) calendar days after written notification of the completion of Make-Ready work following receipt of invoice if CLEC has not requested records under this paragraph. Such credit will issue within ten (10) business days of Qwest's receipt of either all records related to such actual costs or CLEC's request for credit, whichever comes last, but in no event later than ninety (90) calendar days following the request for credit.

10.8.4.4.4 If CLEC cancels or if, due to circumstances unforeseen during inquiry/verification, Qwest denies the request for Poles, Ducts or ROW, upon CLEC request, Qwest will also refund the difference between the actual Make-Ready costs incurred and those prepaid by CLEC, if any. Such request must be made within thirty (30) calendar days of CLEC's receipt of written denial or notification of cancellation. Any such refund shall be made within ten (10) business days of either receipt of CLEC's request or Qwest's receipt of all records relating to the actual costs, whichever comes last, but in no event later than ninety (90) calendar days following the denial.

10.8.5 Billing

CLEC agrees to pay ~~Qwest Poles/Innerduct/ROW preparation charges~~ the following fees in advance and usage fees ("Fees") in advance as specified in the Request and Order Attachments 1.A, and 1.B, and Attachment 2 of the General Information Document Exhibit D: Inquiry Fee, Field Verification Fee, Quitclaim Access Agreement Preparation Fee, Make-Ready Fees~~Fee~~, Pole Attachment Fee, Duct/Innerduct Occupancy Fee and Quitclaim Access Agreement Consideration. Make-Ready Fees will be computed in compliance with applicable local, state and federal guidelines. Such ~~Usage Fees for Poles/Duct/Innerduct/Innerduct~~ (i.e., Pole Attachment Fee and Duct/Innerduct/Innerduct Occupancy Fee) will be assessed on an annual basis (unless CLEC requests a semi-annual basis). Annual Usage Fees for Poles/Duct/Innerduct/Innerduct will be assessed as of January 1 of each year. Semi-annual Usage Fees for Poles/Duct/Innerduct/Innerduct will be assessed as of January 1 and July 1 of each year. Such ~~Fees~~ All fees shall be paid within thirty (30) days following receipt of invoices therefor. All ~~Fees~~ are not refundable except as expressly provided herein.

10.8.6 Maintenance and Repair

In the event of any service outage affecting both Qwest and CLEC, repairs shall be effectuated on a non-discriminatory basis as established by local, state or federal requirements. Where such requirements do not exist, repairs shall be made in the following order: electrical, telephone (EAS/local), telephone (long distance), and cable television, or as mutually agreed to by the users of the affected Poles/Duct/Innerduct/Innerduct.

Exhibit D

Date General Information Provided by Qwest: _____

General Agreement : _____

BAN Number(must be assigned before processing): _____

**REVISED QWEST RIGHT OF WAY, POLE ATTACHMENT, INNERDUCT OCCUPANCY
GENERAL INFORMATION: EFFECTIVE 7/18/00**

1. **PURPOSE.** The purpose of this General Information document is to share information and provide or deny permission to attach and maintain CLEC's facilities ("Facilities") to Qwest Corporation's ("Qwest") Poles, to place Facilities on or within Qwest's Innerduct (collectively "Poles/Innerduct") and to obtain access to Qwest's private right of way ("ROW"), to the extent Qwest has the right to grant such access. This General Information is necessary to determine if Qwest can meet the needs of the CLEC's request but does not guarantee that physical space or access is currently available. Permission will be granted on a first-come, first-serve basis on the terms and conditions set forth in the appropriate agreement pertaining to "Poles/Innerduct". Quotes are effective for thirty (30) days.
2. **PROCESS.** The Qwest process is designed to provide the CLEC the information so as to assist CLEC and Qwest to make Poles, Innerduct and ROW decisions in a cost-efficient manner. The Process has these distinct steps:

2.1 **Inquiry Review - Attachment 1.A (Database Search).** The CLEC is requested to review this document and return Attachment 1.A along with two copies of a map and the nonrefundable Inquiry Fee, calculated in accordance with Attachment 1.A hereto. These fees are intended to cover Qwest's expenses associated with performing an internal record (database) review, preparing a cost estimate for the required field survey, setting up an account, and determining time frames for completion of each task to meet the CLEC's Request. Be sure a BAN number is assigned by the Product Manager (call 303-896-3194 or 0789) before sending Attachment 1.A.

As indicated on Attachment 1.A, a copy of the signed Attachment and maps of the desired route must be sent to the Product Manager while the fee must be sent to the Qwest CLEC Joint Use Manager with the original signed Attachment 1.A. The map should clearly show street names and highways along the entire route, and specific locations of entry and exit of the ROW/duct/pole system. Area Maps should be legible and identify all significant geographic characteristics including, but not limited to, the following: Qwest central offices, streets, cities, states, lakes, rivers, mountains, etc. Qwest reserves the right to reject illegible or incomplete maps. If CLEC wishes to terminate at a particular manhole (such as a POI) it must be indicated on the maps. For ROW: Section, Range and Township, to the ¼ section must also be provided.

Qwest will complete the Inquiry review and prepare and return a Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation (Attachment 1.B) to the CLEC generally within ten (10) days or the applicable federal or state law, rule or regulation that governs this Agreement in the state in which Innerduct attachment is requested. In the case of poles, Qwest will assign a Field Engineer and provide his/her name and phone number to the CLEC. The Field engineer will check the local database and be available for a joint verification with the CLEC. This time frame is applicable to the standard inquiry of one hundred (100) Poles or fewer, or thirty (30) Utility Hole sections or fewer, or two (2) miles of linear ROW or less. The Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation will be valid for thirty (30) calendar days from the date of quotation. The Inquiry step results only in the location and mapping of Qwest facilities and does not indicate whether space is available. The resulting information is provided with Attachment 1.B.

In the case of ROW, Qwest will prepare and return a ROW information matrix and a copy of all publicly recorded agreements listed in the ROW Matrix, within ten (10) days. The ROW Matrix will identify (a) the owner of the ROW as reflected in Qwest's records, and (b) the nature of each ROW (i.e., publicly recorded and non-recorded). The ROW information matrix will also indicate whether or not Qwest has a copy of the Easement Agreement in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and CLEC acknowledges that, to the extent that real property rights run with the land, the original granting party may not be the current owner of the property.

In the case of MDUs, Qwest will prepare and return an MDU information matrix, within ten (10) days, which will identify (a) the owner of the MDU as reflected in Qwest's records, and (b) whether or not Qwest has a copy of the Easement Agreement in its possession. Qwest makes no representations or warranties regarding the accuracy of its records, and CLEC acknowledges that the original landowner may not be the current owner of the property.

Qwest will provide to CLEC a copy of agreements listed in the Matrices that have not been publicly recorded if and only if CLEC obtains authorization for such disclosure from the third party owner(s) of the real property at issue by an executed version of either the Consent to Disclosure form or the Consent Regarding Access Agreement form, both of which are included in Attachment 4. Qwest may redact all dollar figures from copies of agreements listed in the Matrices that have not been publicly recorded that Qwest provides to CLEC.

If there is no other effective agreement (i.e., an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

2.2 Attachment 1.B (Verification) & Attachment 4 (Access Agreement Preparation).
With respect to Poles and Innerduct, upon review and acceptance of signed Attachment 1.B and payment of the estimated verification costs by the CLEC, Qwest will conduct

facilities verification and provide the requested information which may or may not include the following: a review of public and/or internal Qwest right-of-ways records for restrictions, identification of additional rights-of-way required; a field survey and site investigation of the Innerduct, including the preparation of distances and drawings, to determine availability on existing Innerduct; identification of any make-ready costs required to be paid by the CLEC, if applicable, prior to installing its facilities. In the case of Poles, Attachment 1.B orders the field verification which may be done jointly. A copy of the signed Attachment 1.B should be sent to the Product Manager while the appropriate fees should be sent to the Qwest-CLEC Joint Use Manager with the original signed Attachment 1.B. Upon completion of the verification, Attachment 2 will be sent to the CLEC by Qwest.

With respect to ROW, upon review and acceptance of signed Attachment 1.B and payment of the ROW conveyance consideration, Qwest will deliver to the CLEC an executed and acknowledged Access Agreement to the CLEC in the form attached hereto as Attachment 4 (the "Access Agreement"). In the event that the ROW in question was created by a publicly recorded document and Qwest has a copy of such document in its files, a copy of the Easement Agreement, as defined in the Access Agreement, will be attached to the Access Agreement and provided to the CLEC at the time of delivery CLEC of the Access Agreement. If the ROW was created by a document that is not publicly recorded, or if Qwest does not have a copy of the Easement Agreement in its possession, the Access Agreement will not have a copy of the Easement Agreement attached.

Qwest is required to respond to each Attachment 1.B. submitted by CLEC within 35 days of receiving the Attachment 1.B. To the extent that an Attachment 1.B. includes a large number of poles (greater than 100 poles) or a large amount of conduit, innerduct (greater than 30 manholes) or ROW (greater than 2 linear miles), Qwest is required to approve or deny access commencing no later than 35 days after receiving Attachment 1.B., and Qwest is required to approve or deny access on a rolling basis, i.e., at the time Qwest determines the propriety of such access to such poles, conduit, innerduct or ROW, so that CLEC is not required to wait until all poles, conduit, innerduct or ROW in a particular Attachment 1.B. are/is approved or denied prior to being granted any access at all.

~~Verification/Access Agreement Preparation work shall be completed within the time frames designated in the table below:~~

SIZE OF VERIFICATION REQUEST	TIME LIMIT (DAYS)
Less than or equal to 100 poles or 30 manholes or 2 miles of linear ROW	35
Less than or equal to 200 poles or 60 manholes or 4 miles of linear ROW	50
Less than or equal to 300 poles or 90 manholes or 6 miles of linear ROW	65
Less than or equal to 400 poles or 120 manholes or 8 miles of linear ROW	80

Less than or equal to 500 poles or 150 manholes or 10 miles of linear ROW	95
Greater than 500 poles or 150 manholes or 10 miles of linear ROW	As Negotiated Between U S WEST and CLEC

In the case of ROW, after Qwest has delivered the Access Agreement, the CLEC will be required to obtain the property owner's notarized signature on the Consent that is a part of the Access Agreement. Although Qwest will provide the identity of the original grantor of the ROW, as reflected in Qwest's records, the CLEC is responsible for determining the current owner of the property and obtaining the proper signature and acknowledgement. If Qwest does not have a copy of the Easement Agreement in its records, it is the responsibility of the CLEC to obtain a copy of the Easement Agreement. After the CLEC has obtained the properly executed and acknowledged Consent: (a) if the ROW was created by a publicly recorded document, the CLEC must record the Access Agreement (with the Consent and the Easement Agreement attached) in the real property records of the county in which the property is located; (b) if the ROW was created by a grant or agreement that is not publicly recorded, (i) CLEC must provide Qwest with a copy of the properly executed and acknowledged Consent, and (ii) upon receipt of such Consent, Qwest will provide the CLEC with a copy of the Easement Agreement with the monetary terms redacted, and (iii) the CLEC must then record the Access Agreement, together with the Consent and the Easement Agreement, in the real property records for the county in which the property is located; or (c) if the ROW was created by a non-publicly recorded document, but Qwest does not have a copy of the Easement Agreement in its possession, the CLEC (i) must obtain a copy of the Easement Agreement or other suitable documentation reasonably satisfactory to Qwest to describe the real property involved and the underlying rights giving rise to the Access Agreement, and (ii) must record the Access Agreement (with the Consent and the Easement Agreement or other documentation attached) in the real property records of the county in which the property is located. In any case, recordation of the properly completed, executed and acknowledged Access Agreement gives effect to Qwest's conveyance of access to Qwest's ROW.

2.3 Poles/Duct Order Attachment 2 (Access). In the case of Poles and Innerduct, upon completion of the inquiry and verification work described in Section 2.2 above, Qwest will provide the CLEC a Poles/Innerduct Order (Attachment 2) containing annual recurring charges, estimated Make-ready costs. Upon receipt of the executed Attachment 2 Order form from the CLEC and applicable payment for the Make-Ready Fees identified, Qwest will assign the CLEC's requested space; Qwest will also commence the Make-ready work within 30 days following payment of the Make-Ready Fees. Qwest will notify CLEC when Poles/Innerduct are ready for attachment or placement of Facilities. A copy of the signed Attachment 2 form should go to the Product Manager while the payment should go to the Joint Use Manager along with the original signed Attachment 2.

NOTE: Make-ready work performed by Qwest concerns labor only. For Poles it involves rearrangement to accommodate the new attachment. For Innerduct, it involves placing the standard three innerducts in the conduit to accommodate fiber cable where spare conduit exists. Segments without conduit space are considered "blocked". Qwest will consider repair or clearing damaged facilities, but may not construct new facilities as part of Make-ready work.

Construction work to place conduit or replace poles may be required where facilities are blocked. The CLEC may contract separately with a Qwest-approved contractor to complete the construction provided a Qwest inspector inspects the work during and after construction. Construction attaching to or entering Qwest-owned structure must conform to Qwest standards. If other parties benefit from construction, the costs may be divided among the beneficiaries. Construction costs are not included in Attachment 2. The CLEC is not encouraged to sign the access agreement (Attachment 2) until provisions have been made for construction.

2.4 Provision of ROW/Poles/Innerduct. Qwest agrees to issue to CLEC for any lawful telecommunications purpose, a nonexclusive, revocable Order authorizing CLEC to install, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct to the extent owned or controlled by Qwest. Qwest provides access to Poles/Innerduct/ROW in accordance with the applicable federal, state, or local law, rule, or regulation, incorporated herein by this reference, and said body of law, which governs this Agreement in the state in which Poles/Innerduct is provided. Any and all rights granted to CLEC shall be subject to and subordinate to any future federal, state, and/or local requirements. Nothing in this General Information shall be construed to require or compel Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by the CLEC.

The costs included in the Poles/Innerduct Verification Fee are used to cover the costs incurred by Qwest in determining if Poles/Innerduct space is available to meet the CLEC's request; however, the CLEC must agree and will be responsible for payment of the actual costs incurred if such costs exceed the estimate. If the actual costs are less than the estimate, an appropriate credit can be provided upon request. If Qwest denies access, Qwest shall do so in writing, specifying the reasons for denial within 45 days of the initial inquiry.

Likewise, the fees included in the ROW processing costs quotation are used to cover the costs incurred by Qwest in searching its databases and preparing the Access Agreement. In the event that complications arise with respect to preparing the Access Agreement or any other aspect of conveying access to Qwest's ROW, the CLEC agrees to be responsible for payment of the actual costs incurred if such costs exceed the standard fees; actual costs shall include, without limitation, personnel time, including attorney time.

3. DISPUTE RESOLUTION

3.1. Other than those claims over which a federal or state regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.

3.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.

3.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.

3.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

ATTACHMENT 1. A
Poles/Innerduct/ or ROW Inquiry Preparation Fee

General Agreement _____
 BAN Number (must be assigned before processing): _____

Date Submitted: _____ Date Replied to CLEC: _____

CLEC Name _____ Contact _____
 name: _____
 Billing Address: _____
 Phone Number: _____ e-mail _____
 address: _____
 State or location of _____
 inquiry: _____

Qwest Account Mgr: _____ Acct Mgr _____
 Phone: _____

Poles/Innerduct Permit Database Search Costs Quotation
 (One Mile Minimum)

	<u>Costs</u>	<u>Est. Miles</u>	<u>Total</u>
1. Pole Inquiry Fee	(see attached pricing chart) X _____	=	\$ _____
2. Innerduct Inquiry Fee	(see attached pricing chart) X _____	=	\$ _____
3. ROW Records Inquiry	(see attached pricing chart) X _____	=	\$ _____
4. Estimated Interval for Completion of Items 1, 2 and/or 3:	_____ 10 _____		Days

5. Additional requirements of CLEC: _____

This Inquiry will result in (a) for Poles and Innerduct: a drawing of the duct or innerduct structure fitting the requested route, if available, and a quote of the charges for field verification, and/or (b) in the case of ROW a ROW identification matrix, and quote of the charges for preparation of, and consideration for, the necessary Access Agreements. For Poles, the name and telephone number of the Field Engineer will be provided so that the GLEC may contact the Qwest Field engineer and discuss attachment plans. If a field verification of poles is required, Attachment 1.B must be completed and the appropriate charges paid. Innerduct verification is always needed.

By signing below and providing payment of the Estimated Costs identified above, the CLEC desires Qwest to proceed with the processing of its database/records search and acknowledges receipt of this General Information, including the General Terms and Conditions under which Qwest offers such Poles/Innerduct.

		Qwest Corporation

Signature	Signature
	JOHN CARVETH
Name Typed or Printed	Name Typed or Printed
	PRODUCT MANAGER
Title	Title
Date	Date

This signed form (original) should be sent with a check for the Inquiry amount (\$X per mile) to:
Pam Fisher, Qwest Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112 303-792-6990

A copy of this form should be sent with two acceptably-detailed maps showing the requested route to:

**John Carveth, Qwest Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202
303-896-0789**

ATTACHMENT 1.B

General Agreement No. _____

BAN Number: _____

Poles/Innerduct Verification/ROW Access Agreement Preparation Costs Quotation

Date Nonrefundable Received: _____

Date Replied to CLEC: _____

****NOTE: THIS ATTACHMENT WILL BE COMPLETED BY QWEST AND SENT TO THE CLEC FOR SIGNATURE AFTER THE DATABASE INQUIRY IS COMPLETE.****

Charge	Estimated Costs	Number	Total
1. Pole Field Verification Fee (10 pole minimum) \$ _____	_____	_____	
2. Innerduct Field Verification Fee \$ _____	_____	_____	
3. Access Agreement Preparation and Consideration \$ _____ per Access Agreement _____			\$ _____
4. Estimated Interval for Completion of Items 1, 2 and/or 3: _____ Working Days			
5. Additional requirements of CLEC: _____			
Comments: _____			

By signing below and providing payment of the Total Estimated Costs identified above, the CLEC desires Qwest to proceed with the processing of its field survey/preparation of Access Agreements, and acknowledges receipt of this General Information, including the General Terms and Conditions under which Qwest offers such ROW/Poles/Innerduct. The CLEC acknowledges the above costs are estimates only and CLEC may be financially responsible for final actual costs which exceed this estimate, or receive credit if requested.

		Qwest Corporation

Signature	Signature
	JOHN CARVETH
Name Typed or Printed	Name Typed or Printed
	PRODUCT MANAGER
Title	Title
Date	Date

A copy of this form signed form should be sent to:

John Carveth, Qwest Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202

The original signed form should be sent with a check for the verification amount to:

Pam Fisher, Qwest CLEC Joint Use, 6912 S Quentin, Suite 101, Englewood, CO 80112

SCHEDULE A—PRICING CHART

INQUIRY, VERIFICATION, UNAUTHORIZED ATTACHMENT RATES BY STATE

Inquiry and Verification, Poles and Ducts

STATE	POLE INQUIRY** per mile	DUCT INQUIRY per mile	POLE VERIFICATION per pole	DUCT VERIFICATION per manhole
AZ	\$326.04	\$391.91	\$36.21	\$470.74
CO	\$366.42	\$440.45	\$40.70	\$529.04
ID	\$323.69	\$389.09	\$35.95	\$ 467.35
IA	\$346.86	\$416.94	\$38.52	\$500.80
MN	\$343.05	\$412.36	\$38.10	\$495.30
MT	\$328.81	\$395.24	\$36.52	\$474.74
NE	\$340.10	\$408.81	\$37.77	\$491.03
NM	\$337.43	\$405.60	\$37.48	\$487.18
ND	\$316.08	\$379.94	\$35.10	\$456.36
OR*	\$317.43	\$381.54	\$35.26	\$458.26
SD	\$334.10	\$401.60	\$37.11	\$482.37
UT	\$354.72	\$426.39	\$39.40	\$512.15
WA*	\$290.03	\$348.63	\$32.21	\$418.75
WY	\$330.87	\$397.72	\$36.75	\$477.71

* ordered rates by the state commission.

** Rates for Right of Way (ROW) are under development

Unauthorized Attachments

Oregon: Sanctions for unauthorized attachments will comply with House Rule 860.

Utah, Idaho, Washington: Unauthorized attachment charges will be \$200.00 per pole or innerduct segment between manholes.

All other states: Unauthorized attachment charges will be according to Section 9.1 of Attachment 3 or 10.8.2.22 of the SGAT.

SCHEDULE B—Access Rates

RATES BY STATE

STATE	POLE per pole, <u>per foot</u> per year	DUCT per foot per year
AZ	\$4.29	\$0.36
CO	\$2.49	\$0.30
ID	\$3.56	\$ 0.25
IA	\$2.77	\$ 0.19
MN	\$2.12	\$ 0.22
MT	\$2.62	\$ 0.32
NE	\$2.73	\$ 0.28
NM	\$3.06	\$ 0.33
ND	\$6.01	\$ 0.33
OR*	\$4.36	\$ 0.44
SD	\$4.09	\$ 0.28
UT	\$2.46	\$0.33
WA*	\$2.98	\$ 0.38
WY	\$0.74	\$ 0.27

* ordered rates by the state commission.

** Utah Law governs Pole attachment and Conduit Rates. At present (7/26/00) Qwest has tariffed Pole attachment rates for cable companies which is also available for telecommunication carriers through 2/8/01. No conduit rate has been established by the Utah PUC-- the rate shown here is determined by the FCC formula.

ATTACHMENT 2**Poles/Innerduct Order**

General Agreement _____

BAN Number: _____

****NOTE: THIS FORM WILL BE COMPLETED BY QWEST AND SENT TO CLEC FOR
 SIGNATURE****

Make-ready Work required: Yes () No ()

Date _____

Received _____

If Yes is checked, estimated Make-ready costs: \$ _____

The following Attachments are hereby incorporated by reference into this Order:

1. Term - Effective Date - _____
2. Summary of Field Results (including Make-Ready work if required).
3. When placing fiber, CLEC must:
 - a. provide Qwest representative, a final design of splice, racking and slack locations in Qwest utility holes.
 - b. tag all equipment located in/on Qwest's facilities from beginning of the route to the end, and at the entrance and exit of each utility hole with the following information: (1) CLEC's Name and Contact Number, (2) Contract Number and Date of Contract, (3) Number of Fibers in the Innerduct and Color of Occupied Innerduct.

Annual Recurring Charges for this Permit:

	Annual Charge	Quantity	Total Annual Charge
1. Pole Attachment, Per Pole	\$ _____ /	_____	\$ _____
2. Innerduct Occupancy, Per Foot	\$ _____	_____	\$ _____
Total Annual Recurring Charges			\$ _____

For Poles, quantity is based on the number of vertical feet used (One cable attachment = one foot). If you do not place an order at this time, these Poles/Innerduct will be assigned on a first come-first served basis.

Additional Comments: THE ESTIMATED COSTS ARE FOR THE INSTALLATION OF INNERDUCT OR REARRANGEMENT PER THE WORK SHEETS. THE ANNUAL RECURRING CHARGE FOR YEAR 2000 HAS BEEN PRORATED TO _____ (/DAY * DAYS). PLEASE PROVIDE PAYMENT FOR THE MAKE-READY COSTS AND THE PRORATED 2000 RECURRING FEE ALONG WITH THIS SIGNED ORDER _____

By signing below and providing payment of the Make-ready costs and the first year's prorated Annual Recurring Charge (or, if CLEC requests Semiannual billing, then the first half-year's prorated Semiannual Recurring Charge), the CLEC desires Qwest to proceed with the Make-ready Work identified herein and acknowledges receipt of the General Terms and Conditions under which Qwest offers such Poles/Innerduct. By signing this document you are agreeing to the access described herein.

Return this signed form and check to: Pam Fisher, **Qwest CLEC Joint Use, Suite 101, 6912 S. Quentin, Englewood, CO 80112**. Send a copy to: John Carveth, **Structure Product Manager, Suite 2330, 1801 California, Denver, CO 80202**

		Qwest Corporation
Signature		Signature
		JOHN CARVETH
Name Typed or Printed		Name Typed or Printed
		PRODUCT MANAGER
Title		Title
Date		Date

ATTACHMENT 3

General Agreement: _____

**QWEST RIGHT OF WAY ACCESS, POLE ATTACHMENT AND/OR INNERDUCT
OCCUPANCY
GENERAL TERMS AND CONDITIONS**

This is an Agreement between _____ ("CLEC") and Qwest Corporation ("Qwest"), for one or more Orders for the CLEC to obtain access to Qwest's Right-of-Way ("ROW") and/or to install/attach and maintain their communications facilities ("Facilities") to Qwest's Poles and/or placement of Facilities on or within Qwest's Innerduct (collectively "Poles/Innerduct") described in the General Information and CLEC Map, which are incorporated herein by this reference (singularly "Order" or collectively, "Orders"). If there is no other effective agreement (i.e., an Interconnection Agreement) between CLEC and Qwest concerning access to Poles, Ducts and ROW, then this Agreement/Attachment 3 must be executed by both parties in order to start the Inquiry Review and in order for CLEC to obtain access to Poles, Ducts and/or ROW.

1. SCOPE.

- 1.1 Subject to the provisions of this Agreement, Qwest agrees to issue to CLEC for any lawful telecommunications purpose, (a) one or more nonexclusive, revocable Orders authorizing CLEC to attach, maintain, rearrange, transfer, and remove at its sole expense its Facilities on Poles/Innerduct owned or controlled by Qwest, and/or (b) access to Qwest's ROW to the extent that (i) such ROW exists, and (ii) Qwest has the right to grant access to the CLEC. Any and all rights granted to CLEC shall be subject to and subordinate to any future local, state and/or federal requirements, and in the case of ROW, to the original document granting the ROW to Qwest or its predecessors.
- 1.2 Except as expressly provided herein, nothing in this Agreement shall be construed to require or compel Qwest to construct, install, modify, or place any Poles/Innerduct or other facility for use by CLEC or to obtain any ROW for CLEC's use.
- 1.3 Qwest agrees to provide access to ROW/Poles/Innerduct in accordance with the applicable local, state or federal law, rule, or regulation, incorporated herein by this reference, which governs this Agreement in the state in which Poles/Innerduct is provided.

2. **TERM.** Any Order issued under this Agreement for Pole attachments or Innerduct occupancy shall continue in effect for the term specified in the Order. Any access to ROW shall be non-exclusive and perpetual, subject to the terms and conditions of the Access Agreement (as hereinafter defined) and the original instrument granting the

ROW to Qwest. This Agreement shall continue during such time CLEC is providing Poles/Innerduct attachments under any Order to this Agreement.

3. TERMINATION WITHOUT CAUSE.

- 3.1 To the extent permitted by law, either party may terminate this Agreement (which will have the effect of terminating all Orders hereunder), or any individual Order(s) hereunder, without cause, by providing notice of such termination in writing and by certified Mail to the other party. The written notice for termination without cause shall be dated as of the day it is mailed and shall be effective no sooner than one hundred twenty (120) calendar days from the date of such notice.
- 3.2 Termination of this Agreement or any Order hereunder does not release either party from any liability under this Agreement that may have accrued or that arises out of any claim that may have been accruing at the time of termination, including indemnity, warranties, and confidential information.
- 3.3 If Qwest terminates this Agreement for Cause, or if CLEC terminates this Agreement without Cause, CLEC shall pay termination charges equal to the amount of fees and charges remaining on the terminated Order(s) and shall remove its Facilities from the Poles/Innerduct within sixty (60) days, or cause Qwest to remove its Facilities from the Poles/Innerduct at CLEC's expense; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's Facilities are physically removed. Notwithstanding anything herein to the contrary, upon the termination of this Agreement for any reason whatsoever, all Orders hereunder shall simultaneously terminate.
- 3.4 If this Agreement or any Order is terminated for reasons other than Cause, then CLEC shall remove its Facilities from Poles/Innerduct within one hundred and eighty (180) days from the date of termination; provided, however, that CLEC shall be liable for and pay all fees and charges provided for in this Agreement to Qwest until CLEC's Facilities are physically removed.
- 3.5 Qwest may abandon or sell any Poles/Innerduct at any time by giving written notice to the CLEC. Upon abandonment of Poles/Innerduct, and with the concurrence of the other CLEC(s), if necessary, CLEC shall, within sixty (60) days of such notice, either apply for usage with the new owner or purchase the Poles/Innerduct from Qwest, or remove its Facilities therefrom. Failure to remove its Facilities within sixty (60) days shall be deemed an election to purchase the Poles/Innerduct at the current market value.

4. CHARGES AND BILLING.

- 4.1. CLEC agrees to pay Qwest Poles/Innerduct usage fees ("Fees") as specified in the Order. Fees will be computed in compliance with applicable local, state and

Federal law, regulations and guidelines. Such Fees will be assessed, in advance on an annual basis. Annual Fees will be assessed as of January 1st of each year. Fees are not refundable except as expressly provided herein. CLEC shall pay all applicable Fees and charges specified herein within thirty (30) days from receipt of invoice. Any outstanding invoice will be subject to applicable finance charges.

- 4.2. Qwest has the right to revise Fees, at its sole discretion, upon written notice to CLEC within at least sixty (60) days prior to the end of any annual billing period.
5. **INSURANCE.** The CLEC shall obtain and maintain at its own cost and expense the following insurance during the life of the Contract:
 - 5.1. Workers' Compensation and/or Longshoremen's and Harbor Workers Compensation insurance with (1) statutory limits of coverage for all employees as required by statute; and (2) although not required by statute, coverage for any employee on the job site; and (3) Stop Gap liability or employer's liability insurance with a limit of One Hundred Thousand Dollars (\$100,000.00) for each accident.
 - 5.2. General liability insurance providing coverage for underground hazard coverage (commonly referred to as "U" coverage), products/completed operations, premises operations, independent contractor's protection (required if contractor subcontracts the work), broad form property damage and contractual liability with respect to liability assumed by the CLEC hereunder. This insurance shall also include: (1) explosion hazard coverage (commonly referred to as "X" coverage) if the work involves blasting and (2) collapse hazard coverage (commonly referred to as "C" coverage) if the work may cause structural damage due to excavation, burrowing, tunneling, caisson work, or under-pinning. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.
 - 5.3. Comprehensive automobile liability insurance covering the use and maintenance of owned, non-owned and hired vehicles. The limits of liability for this coverage shall be not less than One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury or property damage. These limits of liability can be obtained through any combination of primary and excess or umbrella liability insurance.
 - 5.4. Qwest may require the CLEC from time-to-time during the life of the Contract to obtain additional insurance with coverage or limits in addition to those described above. However, the additional premium costs of any such additional insurance required by Qwest shall be borne by Qwest, and the CLEC shall arrange to have such costs billed separately and directly to Qwest by the insuring carrier(s). Qwest shall be authorized by the CLEC to confer directly with the agent(s) of the

insuring carrier(s) concerning the extent and limits of the CLEC's insurance coverage in order to assure the sufficiency thereof for purposes of the work performable under the Contract and to assure that such coverage as a whole with respect to the work performable are coordinated from the standpoint of adequate coverage at the least total premium costs.

- 5.5 The insuring carrier(s) and the form of the insurance policies shall be subject to approval by Qwest. The CLEC shall forward to Qwest, certificates of such insurance issued by the insuring carrier(s). The insuring carrier(s) may use the ACORD form, which is the Insurance Industries certificate of insurance form. The insurance certificates shall provide that: (1) Qwest is named as an additional insured; (2) thirty (30) calendar days prior written notice of cancellation of, or material change or exclusions in, the policy to which the certificates relate shall be given to Qwest; (3) certification that underground hazard coverage (commonly referred to as "U" coverage) is part of the coverage; and (4) the words "pertains to all operations and projects performed on behalf of the certificate holder" are included in the description portion of the certificate. The CLEC shall not commence work hereunder until the obligations of the CLEC with respect to insurance have been fulfilled. The fulfillment of such obligations shall not relieve the CLEC of any liability hereunder or in any way modify the CLEC's obligations to indemnify Qwest.
- 5.6 Whenever any work is performed requiring the excavation of soil or use of heavy machinery within fifty (50) feet of railroad tracks or upon railroad right-of-way, a Railroad Protective Liability Insurance policy will be required. Such policy shall be issued in the name of the Railroad with standard limits of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit for bodily injury, property damage or physical damage to property with an aggregate limit of Six Million Dollars (\$6,000,000.00). In addition, said policy shall name Qwest and the CLEC/SubCLEC on the declarations page with respect to its interest in these specific job. Said insurance policy shall be in form and substance satisfactory both to the Qwest and the Railroad and shall be delivered to and approved by both parties prior to the entry upon or use of the Railroad Property.
- 5.7 Whenever any work must be performed in the Colorado State Highway right-of-way, policies and certificates of insurance shall also name the State of Colorado as an additional insured. Like coverage shall be furnished by or on behalf of any subcontractor. Copies of said certificates must be available on site during the performance of the work.

6. CONSTRUCTION AND MAINTENANCE OF FACILITIES.

- 6.1 Qwest retains the right, in its sole judgment, to determine the availability of space on Poles/Innerduct. When modifications to a Qwest spare conduit include the placement of innerduct, Qwest retains the right to install the number of innerducts required to occupy the conduit structure to its full capacity. In the event Qwest determines that rearrangement of the existing facilities on Poles/Innerduct is

required before CLEC's Facilities can be accommodated, the cost of such modification will be included in the CLEC's nonrecurring charges for the associated Poles/Innerduct Order.

- 6.2 CLEC shall be solely responsible for obtaining the necessary underlying legal authority to occupy Poles/Innerduct on governmental, federal, Native American, and private rights of way, as applicable, and Qwest does not warrant or represent that providing CLEC with access to the Poles/Innerduct in any way constitutes such legal right. The CLEC shall obtain any necessary permits, licenses, bonds, or other legal authority and permission, at the CLEC's sole expense, in order to perform its obligations under this Agreement. The CLEC shall contact all owners of public and private rights-of-way, as necessary, to obtain written permission required to perform the work prior to entering the property or starting any work thereon and shall provide Qwest with written documentation of such legal authority prior to placement of its facilities on or in the Poles/Innerduct. The CLEC shall comply with all conditions of rights-of-way and Orders.
- 6.3 CLEC's Facilities shall be placed and maintained in accordance with the requirements and specifications of the current applicable standards of Bellcore Manual of Construction Standards, the National Electrical Code, the National Electrical Safety Code, and the rules and regulations of the Occupational Safety and Health Act, all of which are incorporated herein by reference, and any governing authority having jurisdiction of the subject matter of this Agreement. Where a difference in specifications exists, the more stringent shall apply. Failure to maintain Facilities in accordance with the above requirements shall be Cause as referenced in Section 3 to this Agreement for termination of the Order in question. Termination of more than two (2) Orders in any twelve-month period pursuant to the foregoing sentence shall be Cause as referenced in Section 3 for termination of this Agreement. Qwest's procedures governing its standard maintenance practices shall be made available upon request for public inspection at the appropriate Qwest premises. CLEC's procedures governing its standards maintenance practices for Facilities shall be made available to Qwest upon written request. CLEC shall within thirty (30) days comply and provide the requested information to Qwest to bring their facilities into compliance with these terms and conditions.
- 6.4. In the event of any service outage affecting both Qwest and CLEC, repairs shall be effectuated on a priority basis as established by local, state or federal requirements, or where such requirement do not exists, repairs shall be made in the following order: electrical, telephone (local), telephone (long distance), and cable television, or as mutually agreed to by the users of the effected Poles/Innerduct.
- 6.5 In the event of an infrastructure outage, the CLEC should contact their Network Maintenance Center at 1-800-223-7881 or the CLEC may contact their Account Manager at the Interconnect Service Center.

7. MODIFICATION TO EXISTING POLES/INNERDUCT.

7.1. If CLEC requests Qwest to replace or modify existing Poles/Innerduct to increase its strength or capacity for the benefit of the CLEC and Qwest determines in its sole discretion to provide the requested capacity, the CLEC shall pay Qwest the total replacement cost, Qwest's cost to transfer its attachments, as necessary, and the cost for removal (including destruction fees) of any replaced Poles/Innerduct, if such is necessary. Ownership of new Poles/Innerduct shall vest in Qwest. To the extent that a modification is incurred for the benefit of multiple parties, CLEC shall pay a proportionate share of the total cost as outlined above, based on the ratio of the amount of new space occupied by the Facilities to the total amount of space occupied by all parties joining the modification. Modifications that occur in order to bring Poles/Innerduct into compliance with applicable safety or other requirements shall be deemed to be for the benefit of the multiple parties and CLEC shall be responsible for its pro rata share of the modification cost. Except as set forth herein, CLEC shall have no obligation to pay any of the cost of replacement or modification of Poles/Innerduct requested solely by third parties.

7.2. Written notification of modification initiated by or on behalf of Qwest shall be provided to CLEC at least sixty (60) days prior to beginning modifications if such modifications are not the result of an emergency situation. Such notification shall include a brief description of the nature and scope of the modification. If CLEC does not rearrange its facilities within sixty (60) days after receipt of written notice from Qwest requesting such rearrangement, Qwest may perform or cause to have performed such rearrangement and CLEC shall pay for cost thereof. No such notice shall be required in emergency situations or for routine maintenance of Poles/Innerduct.

8. INSPECTION OF FACILITIES. Qwest reserves the right to make final construction, subsequent and periodic inspections of CLEC's facilities occupying the Poles/Innerduct system. CLEC shall reimburse Qwest for the cost of such inspections except as specified in Section 8 hereof.

8.1. CLEC shall provide written notice to Qwest, at least fifteen (15) days in advance, of the locations where CLEC's plant is to be constructed.

8.2. The CLEC shall forward Exhibit A, entitled "Pulling In Report" attached hereto and incorporated herein by this reference, to Qwest within five (5) business days of the date(s) of the occupancy.

8.3. Qwest shall provide written notification to CLEC within seven (7) days of the date of completion of a final construction inspection.

8.4. Where final construction inspection by Qwest has been completed, CLEC shall be obligated to correct non-complying conditions within thirty (30) days of receiving written notice from Qwest. In the event the corrections are not

completed within the thirty (30)-day period, occupancy authorization for the Poles/Innerduct system where non-complying conditions remain uncorrected shall terminate immediately, regardless of whether CLEC has energized the facilities occupying said Poles/Innerduct system, unless Qwest has provided CLEC a written extension to comply. CLEC shall remove its facilities from said Poles/Innerduct in accordance with the provisions set forth in Section 10 of this Agreement. No further occupancy authorization shall be issued to CLEC until such non-complying conditions are corrected or until CLEC's facilities are removed from the Pole/Conduit system where such non-complying conditions exist. If agreed to in writing, by both parties, Qwest shall perform such corrections and CLEC shall pay Qwest the cost of performing such work. Subsequent inspections to determine if appropriate corrective action has been taken may be made by Qwest.

- 8.5. Once the CLECs facilities occupy Qwest Poles/Innerduct system and Exhibit A has been received by Qwest, Qwest may perform periodic inspections. The cost of such inspections shall be borne by Qwest, unless the inspection reveals any violations, hazards, or conditions indicating that CLEC has failed to comply with the provisions set forth in this Agreement, in which case the CLEC shall reimburse Qwest for full costs of inspection, and re-inspection to determine compliance as required. A CLEC representative may accompany Qwest on field inspections scheduled specifically for the purpose of inspecting CLEC's Facilities; however, CLEC's costs associated with its participation in such inspections shall be borne by CLEC. Qwest shall have no obligation to notify CLEC, and CLEC shall have no right to attend, any routine field inspections.
- 8.6. The costs of inspections made during construction and/or the final construction survey and subsequent inspection shall be billed to the CLEC within thirty (30) days upon completion of the inspection.
- 8.7. Final construction, subsequent and periodic inspections or the failure to make such inspections, shall not impose any liability of any kind upon Qwest, and shall not relieve CLEC of any responsibilities, obligations, or liability arising under this Agreement.

9. UNAUTHORIZED FACILITIES

- 9.1 If any facilities are found attached to Poles/Innerduct for which no Order is in effect, Qwest, without prejudice to any other rights or remedies under this Agreement, shall assess an unauthorized attachment administrative fee of Two Hundred Dollars (\$200.00) per attachment per Pole or innerduct run between manholes, and require the CLEC to submit in writing, within ten (10) day after receipt of written notification from Qwest of the unauthorized occupancy, a Poles/Innerduct application. If such application is not received by Qwest within the specified time period, the CLEC will be required to remove its unauthorized facility within ten (10) days of the final date for submitting the required

application, Qwest may remove the CLEC's facilities without liability, and the cost of such removal shall be borne by the CLEC.

- 9.2 For the purpose of determining the applicable charge, the unauthorized Poles/Innerduct occupancy shall be treated as having existed for a period of five (5) years prior to its discovery, and the charges, as specified in Section 4, shall be due and payable forthwith whether or not CLEC is ordered to continue the occupancy of the Poles/Innerduct system.
- 9.3. No act or failure to act by Qwest with regard to an unauthorized occupancy shall be deemed to constitute the authorization of the occupancy; any authorization that may be granted subsequently shall not operate retroactively or constitute a waiver by Qwest of any of its rights of privileges under this Agreement or otherwise.
10. **REMOVAL OF FACILITIES.** Should Qwest, under the provisions of this Agreement, remove CLEC's Facilities from the Poles/Innerduct covered by any Order (or otherwise), Qwest will deliver the Facilities removed upon payment by CLEC of the cost of removal, storage and delivery, and all other amounts due Qwest. If payment is not received by Qwest within thirty (30) days, CLEC will be deemed to have abandoned such facilities, and Qwest may dispose of said facilities as it determines to be appropriate. If Qwest must dispose of said facilities, such action will not relieve CLEC of any other financial responsibility associated with such removal as provided herein. If CLEC removes its Facilities from Poles/Innerduct for reasons other than repair or maintenance purposes, the CLEC shall have no right to replace such facilities on the Poles/Innerduct until such time as all outstanding charges due to Qwest for previous occupancy have been paid in full. CLEC shall submit Exhibit B, entitled "Notification of Surrender of Modification of Conduit Occupancy License by CLEC," or Exhibit C, entitled "Notification of Surrender of Modification of Pole Attachment by CLEC," each as attached hereto, advising Qwest as to the date on which the removal of Facilities from each Poles/Innerduct has been completed.
11. **INDEMNIFICATION AND LIMITATION OF LIABILITIES.** CLEC shall indemnify and hold harmless Qwest, its owners, parents, subsidiaries, affiliates, agents, directors, and employees against any and all liabilities, claims, judgments, losses, orders, awards, damages, costs, fines, penalties, costs of defense, and attorneys' fees ("Liabilities") to the extent they arise from or in connection with: (1) infringement, or alleged infringement, of any patent rights or claims caused, or alleged to have been caused, by the use of any apparatus, appliances, equipment, or parts thereof, furnished, installed or utilized by the CLEC; (2) actual or alleged fault or negligence of the CLEC, its officers, employees, agents, subcontractors and/or representatives; (3) furnishing, performance, or use of any material supplied by CLEC under this Contract or any product liability claims relating to any material supplied by CLEC under this Contract; (4) failure of CLEC, its officers, employees, agents, subcontractors and/or representatives to comply with any term of this Contract or any applicable local, state, or federal law or regulation, including but not limited to the OSH Act and environmental protection laws; (5) assertions under workers' compensation or similar employee benefit acts by CLEC or its

employees, agents, subcontractors, or subcontractors' employees or agents; (6) the acts or omissions (other than the gross negligence or willful misconduct) of Qwest, its officers, employees, agents, and representatives, except as otherwise provided in paragraphs 11.3 and 11.4 below; and/or, (7) any economic damages that may rise, including damages for delay or other related economic damages that the Qwest or third parties may suffer or allegedly suffer as a result of the performance or failure to perform work by the CLEC. If both Qwest and the CLEC are sued as a result of or in connection with the performance of work arising out of this Contract, the parties hereby agree that the defense of the case (including the costs of the defense and attorneys' fees) shall be the responsibility of the CLEC, if Qwest desires. Qwest shall give the CLEC reasonable written notice of all such claims and any suits alleging such claims and shall furnish upon the CLEC's request and at the CLEC's expense all information and assistance available to the Qwest for such defense. The parties shall employ Article 13, Dispute Resolution, to resolve any dispute concerning the proportional fault and liability after the underlying case is terminated.

- 11.1 IF WORK IS PERFORMED IN THE STATE OF WASHINGTON UNDER THIS GENERAL CONTRACT, THE CLEC ACKNOWLEDGES AND AGREES THAT THIS INDEMNIFICATION OBLIGATION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL CLAIMS AGAINST QWEST BY AN EMPLOYEE OR FORMER EMPLOYEE OF THE CLEC, AND THE CLEC EXPRESSLY WAIVES ALL IMMUNITY AND LIMITATION ON LIABILITY UNDER ANY INDUSTRIAL INSURANCE ACT, OTHER WORKERS' COMPENSATION ACT, DISABILITY BENEFIT ACT, OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION WHICH WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH A CLAIM.
- 11.2 Except as expressly provided herein, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, ANY LOSS OF USE, LOSS OF BUSINESS OR LOSS OF PROFIT; provided, however, there shall be no limitation on a party's liability to the other for any fines or penalties imposed on the other party by any court of competent jurisdiction or federal, state or local administrative agency resulting from the failure of the party to comply with any term or condition of this Contract or any valid and applicable law, rule or regulation.
- 11.3 FOR ANY WORK PERFORMED IN ARIZONA, IDAHO, SOUTH DAKOTA, UTAH OR WASHINGTON, SECTION 11(6) SHALL NOT EXTEND TO THE SOLE NEGLIGENCE OF QWEST BUT SHALL EXTEND TO THE NEGLIGENCE OF QWEST WHEN CONCURRENT WITH THAT OF THE CLEC.
- 11.4 FOR ANY WORK PERFORMED IN THE STATES OF MINNESOTA, NEBRASKA, NEW MEXICO, OR OREGON, ARTICLE 11 SHALL NOT APPLY, EXCEPT THAT SECTION 11 SHALL APPLY FOR WORK PERFORMED IN MINNESOTA FOR MAINTENANCE OR REPAIR OF

MACHINERY, EQUIPMENT, OR OTHER SUCH DEVICES, USED AS PART OF A MANUFACTURING, COVERING, OR OTHER PRODUCTION PROCESS INDULGING ELECTRIC, GAS, STEAM, AND TELEPHONE UTILITY EQUIPMENT USED FOR PRODUCTION, TRANSMISSION, OR DISTRIBUTION PURPOSES.

12. **FORCE MAJEURE**

- 12.1 The CLEC shall be excused from its performance as to any Order if prevented by acts or events beyond the CLEC's reasonable control including extreme weather conditions, strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.
- 12.2 If such contingency occurs, Qwest may elect:
 - 12.2.1 To terminate this Agreement as to the Order in question; or
 - 12.2.2 To terminate already-assigned specific work assignment(s) the CLEC is unable to perform, or any part thereof, and to assign new specific work assignments to other parties for the duration of the cause of the delay; or
 - 12.2.3 To suspend already-assigned specific work assignment(s) the CLEC is unable to perform, or any part thereof, for the duration of the cause of the delay; and to assign new specific work assignments to other parties for the duration of the cause of the delay.
- 12.3 Qwest shall be deemed to have elected Section 12.2.3 above unless written notice of termination is given by Qwest after the contingency occurs. With respect to Qwest's election of Section 12.2.3 above:
 - 12.3.1 Qwest shall give the CLEC written notice of the work to be performed by such other party prior to its performance and shall deduct from the CLEC's price the cost of the work or services actually performed by such other parties.
 - 12.3.2 The CLEC shall resume performance, and complete any work not performed or to be performed by another party, once the delaying cause ceases.
 - 12.3.3 If appropriate, at the Qwest's discretion, the time for completion of specific work assignment(s) shall be extended up to the length of time the contingency endured.
- 12.4 Qwest shall be excused from its performance if prevented by acts or events beyond the Qwest's reasonable control including extreme weather conditions,

strikes, fires, embargoes, actions of civil or military law enforcement authorities, acts of God, or acts of legislative, judicial, executive, or administrative authorities.

13. **DISPUTE RESOLUTION.**

- 13.1. Other than those claims over which a regulatory agency has exclusive jurisdiction, all claims, regardless of legal theory, whenever brought and whether between the parties or between one of the parties to this Agreement and the employees, agents or affiliated businesses of the other party, shall be resolved by arbitration. A single arbitrator engaged in the practice of law and knowledgeable about telecommunications law shall conduct the arbitration in accordance with the then current rules of the American Arbitration Association ("AAA") unless otherwise provided herein. The arbitrator shall be selected in accordance with AAA procedures from a list of qualified people maintained by AAA. The arbitration shall be conducted in the regional AAA office closest to where the claim arose.
- 13.2. All expedited procedures prescribed by the AAA shall apply. The arbitrator's decision shall be final and binding and judgment may be entered in any court having jurisdiction thereof.
- 13.3. Other than the determination of those claims over which a regulatory agency has exclusive jurisdiction, federal law (including the provisions of the Federal Arbitration Act, 9 U.S.C. Sections 1-16) shall govern and control with respect to any issue relating to the validity of this Agreement to arbitrate and the arbitrability of the claims.
- 13.4. If any party files a judicial or administrative action asserting claims subject to arbitration, and another party successfully stays such action and/or compels arbitration of such claims, the party filing the action shall pay the other party's costs and expenses incurred in seeking such stay or compelling arbitration, including reasonable attorney's fees.

14. **LAWFULNESS.** This Agreement and the parties' actions under this Agreement shall comply with all applicable federal, state, and local laws, rules, regulations, court orders, and governmental agency orders. Any change in rates, charges or regulations mandated by the legally constituted authorities will act as a modification of any contract to that extent without further notice. This Agreement shall be governed by the laws of the state where Poles/Innerduct is provided. Nothing contained herein shall substitute for or be deemed a waiver of the parties' respective rights and obligations under applicable federal, state and local laws, regulations and guidelines, including (without limitation) Section 224 of the Communications Act of 1934, as amended (47 U.S.C. 224). The CLEC represents that it is a certified Competitive Local Exchange Carrier or otherwise has the legal right, pursuant to 47 U.S.C. 224 to attach to Qwest's pole pursuant to the terms thereof. The CLEC acknowledges that Qwest will rely on the foregoing representation, and that if such representation is not accurate, this Agreement shall be

deemed void *ab initio*, except for Article 9 hereof, for which CLEC shall remain fully liable.

15. **SEVERABILITY.** In the event that a court, governmental agency, or regulatory agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.
16. **GENERAL PROVISIONS.**
 - 16.1 Failure or delay by either party to exercise any right, power, or privilege hereunder, shall not operate as a waiver hereto.
 - 16.2 This Agreement shall not be assignable by CLEC without the express written consent of Qwest, which shall not be unreasonably withheld. Assignment of this Agreement by CLEC to CLEC's subsidiary or affiliate shall be presumed to be reasonable; provided, however, that CLEC must obtain Qwest's consent in any event.
 - 16.3 This Agreement benefits CLEC and Qwest. There are no third party beneficiaries.
 - 16.4 This Agreement constitutes the entire understanding between CLEC and Qwest with respect to Service provided herein and supersedes any prior agreements or understandings.

The parties hereby execute and authorize this Agreement as of the latest date shown below:

CLEC

Qwest Corporation

Signature

Signature

Name Typed or Printed

JOHN CARVETH

Name Typed or Printed

Title

PRODUCT MANAGER

Title

Date

Date

Address for Notices

Address for Notices

Contact:
Phone:
FAX:

Qwest Corporation
1801 California, Rm. 2330
Denver, CO 80202

Contact: JOHN CARVETH
Phone: 303-896-0789
FAX: 303-896-9022

PULLING IN REPORT

This report is to be completed by the CLEC when fiber cable is placed into innerduct.

_____ 20____

Send to:

E. Skinner, Qwest Corp
6912 S. Quentin St, Suite 201
Englewood, CO 80112

This is to advise you that pursuant to General Agreement No. _____
granted to us under the terms of the Innerduct Agreement dated _____, 20__ we
have completed installation of the following cable into the following ducts.

Municipality

Location		
From	To	Cable and
<u>Manhole at</u>	<u>Manhole at</u>	<u>Equipment Installed</u>

Name of CLEC

By: _____
Title: _____

Receipt of the above report is hereby acknowledged _____, 20__.

Qwest Corporation

By: _____
Title: _____

1. Reports shall be submitted in duplicate.

2. A complete description of all facilities shall be given, including a print showing the locations, quantities, sizes and types of all cables and equipment.
3. Sketch to be furnished showing duct used. Must be same duct assigned to Licensee by Licensor as shown on Exhibit ____, unless a change has been previously authorized in writing by Licensor.

EXHIBIT B

CLEC: _____

NOTIFICATION OF SURRENDER OR MODIFICATION
OF CONDUIT OCCUPANCY ORDER BY CLEC

Return to:
E. Skinner, Qwest Corp
6912 S. Quentin, Suite 201
Englewood, CO 80112

In accordance with the terms and conditions of this Agreement between us, dated _____, 20__, notice is hereby given that the licenses covering occupancy of the following conduit are surrendered (and/or modified as indicated in Licensee's prior notification to Licensor, dated _____, 20__) effective _____.

CONDUIT LOCATION	LIC. NO. & DATE	SURRENDER OR MODIFICATION	DATE FAC. RMVD. OR MODIFIED

Name of Licensor_____
Name of Co- Provider_____
Date Notification Received

By _____

Date Modification Accepted

Title _____

ATTACHMENT C

Six State Colloborative 271 Workshop
Exhibits to Rebuttal Testimony
of Thomas R. Freeberg
Checklist item 3
Exhibit QWE-TRF-6
November 3, 2000
Page 31

By _____
Discontinued:

Total duct footage _____

EXHIBIT C

NOTIFICATION OF SURRENDER OR MODIFICATION
 OF POLE ATTACHMENT ORDER BY CLEC

CLEC: _____

Return to:
E. Skinner, Qwest Corp
 6912 S. Quentin, Suite 201
 Englewood, CO 80112

In accordance with the terms and conditions of the Agreement between Qwest and CLEC, dated __, 20__, notice is hereby given that the licenses covering attachments to the following poles and/or anchors, and/or utilization of anchor/guy strand is surrendered (or modified as indicated in CLEC's prior notification to Qwest, dated _____, 20__) effective _____.

	POLE NO.	ASSOC. POLE NO.	LIC. NO. & DATE	SURRENDER OR MODIFICATION	DATE FAC. RMVD OR MODIFIED
1.		A A/GS -			
2.		A A/GS -			
3.		A A/GS -			
4.		A A/GS -			
5.		A A/GS -			
6.		A A/GS -			
7.		A A/GS -			
8.		A A/GS -			
9.		A A/GS -			

Date Notification Received _____
 Date Modification Received _____

By: _____

Name of CLEC _____

ATTACHMENT C

Six State Colloborative 271 Workshop
Exhibits to Rebuttal Testimony
of Thomas R. Freeberg
Checklist item 3
Exhibit QWE-TRF-6
November 3, 2000
Page 33

Discontinued:

Poles _____

Anchors _____

By: _____

Anchor/Guy Strands _____ Its: _____

ATTACHMENT 4 FORM OF ACCESS AGREEMENT

After recording, please return to:

E. Skinner
Qwest Joint Use Group PDR, Suite 201
6912 S Quentin, Englewood, CO 80112

ACCESS AGREEMENT

THIS ACCESS AGREEMENT (this “Agreement”) is made as of the ____ day of ____, 2000, by and between **QWEST CORPORATION**, a Colorado corporation, successor in interest to **U S WEST COMMUNICATIONS, INC.**, a Colorado corporation (“Grantor”), whose address is _____, and _____, a _____, whose address is _____ (“Grantee”).

RECITALS

- A. This Agreement relates to certain real property (the “Property”) located in the County of _____ (the “County”), State of _____ (the “State”).
- B. A copy of an agreement purporting to grant to Grantor certain rights to use the Property, as described therein (the “Easement Rights”), is attached as Exhibit A (the “Right of Way Agreement”).
- C. Pursuant to 42 U.S.C. §§ 224 and 251(b)(5), Grantor, as a Local Exchange Carrier, is required to provide access to rights-of-way to a requesting telecommunications carrier, as defined in 42 U.S.C. § 224. Grantee is a telecommunications carrier that has requested access to Grantor’s Easement Rights. To comply with the aforementioned legal requirement, Grantor has agreed to share with Grantee its Easement Rights, if any, relating to the Property, to the extent Grantor may legally convey such an interest.
- D. Subject to the consent of the owner of the Property (“Owner”) and on the other terms and conditions set forth in this Agreement, Grantor has agreed to convey to Grantee, without any representation or warranty, the right to use the Easement Rights, and Grantee has agreed to accept such conveyance.

NOW, THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant of Right of Access. Grantor hereby conveys to Grantee and its Authorized Users (as defined below) a non-exclusive, perpetual right to access and use the Easement Rights, which right shall be expressly (a) subject to, subordinate to, and limited by the Right of Way Agreement, and (b) subject to the terms and conditions hereof. As used in this Agreement, "Authorized Users" of Owner, Grantor and Grantee shall mean Owner, Grantor or Grantee, as applicable, their respective Affiliates and agents, licensees, employees, and invitees, including, without limitation, contractors, subcontractors, consultants, suppliers, public emergency vehicles, shipping or delivery vehicles, or construction vehicles. "Affiliates" means, with respect to any Person, any Person that controls, is controlled by or is under common control with such Person, together with its and their respective members, partners, venturers, directors, officers, stockholders, agents, employees and spouses. A Person shall be presumed to have control when it possesses the power, directly or indirectly, to direct, or cause the direction of, the management or policies of another Person, whether through ownership of voting securities, by contract, or otherwise. "Person" means an individual, partnership, limited liability company, association, corporation or other entity.

2. Grantor's Reserved Rights. Grantor reserves to itself and its Authorized Users the right to use the Easement Rights for any purpose not incompatible with the rights conveyed to Grantee by this Agreement.

3. Conditions Precedent to Effectiveness of Agreement. This Agreement is expressly conditioned on the following:

a. Consent by Owner. Grantee shall obtain, at its sole cost and expense, a written consent from Owner in the form attached (the "Consent"). The Consent provides, among other things, that Owner shall give notice to Grantor of any default under the Right of Way Agreement and the opportunity to cure such default.

b. Recordation of Agreement. If the Right-of-Way Agreement has been publicly recorded, Grantee shall be responsible for assuring that the Agreement is in appropriate form for recording in the real property records of the County, shall pay for the recording thereof, and shall provide a copy of the recorded Agreement to Grantor at the address set forth above. An executed and acknowledged Consent and a legible copy of the Right of Way Agreement must be attached to the Agreement when recorded or the Agreement shall not be effective.

c. Payment of Costs and Expenses. Grantee shall pay to or reimburse Grantor for all costs and expenses, including reasonable attorneys' fees, relating to Grantor's execution and delivery of this Agreement.

4. Grantee's Representations and Warranties. Grantee represents and warrants to Grantor that:

a. Authority. Grantee is a _____, duly formed and validly existing under the laws of the State of _____. All necessary action has been taken by Grantee to execute and deliver this Agreement and to perform the obligations set forth hereunder. Grantee is a "telecommunications carrier" as that term is defined in 42 U.S.C. § 224.

b. Due Diligence. Grantee acknowledges and agrees that neither Grantor nor any agent, employee, attorney, or representative of Grantor has made any statements, agreements, promises, assurances, representations, or warranties, whether in this Agreement or otherwise and whether express or implied, regarding the Right of Way Agreement or the Easement Rights or the assignability or further granting thereof, or title to or the environmental or other condition of the Property. Grantee further acknowledges and agrees that Grantee has examined and investigated to its full satisfaction the physical nature and condition of the Property and the Easement Rights and that it is acquiring the Easement Rights in an "AS IS, WHERE IS" condition. Grantee expressly waives all claims for damages by reason of any statement, representation, warranty, assurance, promise or agreement made, if any.

5. Grantee's Covenants.

a. Compliance with Right of Way Agreement. Grantee agrees that the rights granted by Grantor hereunder are expressly subject to, subordinate to, and limited by the Right of Way Agreement, and Grantee further agrees to comply in all respects with the terms and conditions of the Right of Way Agreement as they apply to the holder or user of the Easement Rights. In the event Grantee fails to observe or perform any of its obligations under the Right of Way Agreement, Grantor shall have the right, but not the obligation, to perform or observe such obligation to the extent that such obligation can be observed or performed by Grantor.

b. Compliance with Laws. Grantee agrees to use the Property and the Easement Rights in compliance with all applicable laws.

c. No Further Grant. Grantee shall not grant to any Person other than Grantee's Authorized Users the right to use the Easement Rights without the prior written consent of Grantor, which consent may be granted or withheld in Grantor's sole discretion.

d. Non-Interference. Grantee agrees that it will not interfere with Grantor's or Grantor's Authorized Users' use of the Easement Rights and will not take any action or fail to take any action that would negatively affect the Easement Rights or cause or contribute to the termination of the Right of Way Agreement.

6. Indemnification. Grantee hereby agrees to indemnify, defend and hold Owner, Grantor and their respective Affiliates harmless from and against any and all claims, judgments, damages, liabilities, penalties, fines, suits, causes of action, costs of settlement, and expenses (including, without limitation, reasonable attorneys' fees) which may be imposed upon or incurred by Grantor or its Authorized Users, or any of them, arising from, relating to or caused by Grantee's breach of this Agreement or the use, or the use by any of Grantee's Authorized Users, of the Easement Rights. In addition to the indemnity obligations described above, in the event that any act or omission of Grantee or Grantee's Authorized Users causes, directly or indirectly, and without reference to any act or omission of Owner, Grantor or their respective Authorized users, the termination or revocation of the Easement Rights, Grantee shall be liable to Grantor for all costs incurred in connection with (a) acquiring replacement Easement Rights over the Property or over other suitable Property, as determined in Grantor's sole judgment (the "Replacement Easement"), (b) the fully-loaded cost of constructing replacement facilities over the Replacement Easement, (c) the cost of removing its facilities and personal property from the Property, if required by the Right of Way Agreement, and (d) any other costs of complying with the Right of Way Agreement, including, without limitation, reasonable attorneys' fees. Grantee shall pay all such amounts within ten (10) days of receipt of any invoice for such costs delivered to Grantee by Owner, Grantor or their respective Authorized Users.

7. Condemnation. If any action is taken whereby the Right of Way Agreement or any part of the Easement Rights are terminated, relocated or otherwise affected, by any taking or partial taking by a governmental authority or otherwise, then such any compensation due or to be paid to the holder of the Easement Rights due to such occurrence shall belong solely to Grantor.

8. Severable Provisions. If any term of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

9. Default; Remedies. (a) If Grantee files a petition in bankruptcy, or a petition is bankruptcy is filed against Grantee, which is not dismissed on or before fifteen (15) days after such filing, or (b) in the event of Grantee's breach or threatened breach of any term, covenant or condition of this Agreement, then Grantor shall have, in addition to all other legal and equitable remedies, the right to (x) terminate this Agreement, (y) enforce the provisions hereof by the equitable remedy of specific performance, or (z) enjoin such breach or threatened breach by injunctive action, all without the necessity of proof of actual damages or inadequacy of any legal remedy. Grantee agrees to pay all costs of enforcement of the obligations of Grantee hereunder, including reasonable attorneys' fees and all costs of suit, in case it becomes necessary for Grantor to enforce the obligations of Grantee hereunder, whether suit be brought or not, and whether through courts of original jurisdiction, as well as in courts of appellate jurisdiction, or through a bankruptcy court or other legal proceedings.

10. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be assigned at any time in whole or in part by Grantor.

11. No Dedication. Nothing contained in this Agreement shall constitute a gift or dedication of any portion of the Easement Rights to the general public or for any public purpose whatsoever. There are no intended third-party beneficiaries to this Agreement.

12. Grantor's Waiver of Confidentiality. In the event that Owner properly executes the Consent, Grantor hereby waives any right to keep the terms and conditions of the Right of Way Agreement confidential, except for any dollar amounts in the Right of Way Agreement, which rights Grantor expressly reserves. Grantor's waiver of rights, subject to the limitation set forth above, is intended to be effective whether or not such right to confidentiality is expressly set forth in the Right of Way Agreement or elsewhere or may have been agreed to orally, and Grantor further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Owner or Grantee, based upon or arising out of Grantor's alleged right to confidentiality relating to the Right of Way Agreement, except in the event of disclosure of dollar amounts in the Right of Way Agreement. Grantor's waiver is expressly conditioned on Owner's waiver of Owner's confidentiality rights, as set forth in the Consent, which is a part hereof. In the event that Owner does not waive its rights to confidentiality by executing the Consent in the form attached hereto, or if the person executing the Consent does not have the legal right to bind the Owner, Grantor reserves the right (a) to enforce the confidentiality provisions of the Right of Way Agreement, and/or (b) to maintain an action for damages, including, without limitation, consequential damages, arising from the breach of such confidentiality provisions, against any party, including, without limitation, against Grantee or against any Person improperly executing the Consent. In any event, Grantor reserves its right to (a) to enforce the confidentiality provisions of the Right of Way Agreement as to any dollar amounts set forth in such Right of Way Agreements, and/or (b) to maintain an action for damages, including, without limitation, consequential damages, arising from the disclosure of the dollar amounts in any Right of Way Agreement, against any party, including, without limitation, against Grantee or against any Person improperly executing the Consent.

13. Notices. All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.

14. Modification; Counterparts. This Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by an instrument in writing and signed by the party against whom enforcement of any amendment, modification,

change or waiver is sought. This Agreement may be executed in any number of counterparts, all of which shall constitute but one and the same document.

15. Controlling Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

16. Waiver of Jury Trial. **THE PARTIES HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT OF APPLICABLE LAW, ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

[Signature pages follow]

EXECUTED as of the date first written above.

GRANTOR:

Witnessed by: _____

QWEST CORPORATION, a Colorado corporation,
successor in interest to
U S WEST COMMUNICATIONS, INC.,
a Colorado corporation

By: _____

Name: _____

Title: _____

STATE OF _____)

) ss:

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of
_____, 2000, by _____ as
_____ of QWEST CORPORATION, a
Colorado corporation.

Witness my hand and official seal.

(SEAL)

Notary Public
My Commission Expires:

EXECUTED as of the date first written above.

GRANTEE:

Witnessed by: _____, a

By: _____
Name: _____
Title: _____

STATE OF _____)
COUNTY OF _____) ss:
_____)

The foregoing instrument was acknowledged before me this ____ day of
_____, 2000, by _____ as
_____ of
_____, a _____.

Witness my hand and official seal.

(SEAL)

Notary Public
My Commission Expires:

CONSENT REGARDING ACCESS AGREEMENT

THE UNDERSIGNED, _____, a _____
("Owner"), whose address is _____, hereby consents to the
terms of the following paragraphs regarding the foregoing Access Agreement (the "Agreement").
This Consent is attached to and made a part of the Agreement, and capitalized terms used in this
Consent, if not otherwise defined, have the same meaning as in the Agreement.

FOR TEN DOLLARS (\$10) and other good and valuable consideration, the receipt and
sufficiency of which are hereby acknowledged, Owner agrees as follows:

1. Title to Property. Owner represents and warrants either (a) that Owner is the owner of fee title to the Property described in the Right of Way Agreement attached to the Agreement as Exhibit A or, if no description of the Property is given in the Right of Way Agreement, then (b) that Owner is the grantor, or the successor to or assignee of the grantor, of the Easement Rights under the Right of Way Agreement. Owner further represents and warrants that Owner has the legal right to execute this Consent, including, without limitation, the right to waive the confidentiality of the Right of Way Agreement as set forth in Section 3 of this Consent and the right to bind Owner to grant the notice and cure period as set forth in Section 4 of this Consent.
2. Owner's Acknowledgments. Owner expressly acknowledges that (a) Owner has received and reviewed a copy of the foregoing Agreement; (b) this is a legal document that may affect Owner's rights and Owner was given the opportunity to have the Agreement and this Consent reviewed by Owner's attorney; (c) if the Agreement has been publicly recorded, the Agreement, with this Consent attached, will be recorded in the real property records of the County and will become a public record, and Owner, by signing this Consent, waives any rights it may to keep the terms and provisions of the Agreement and the Right of Way Agreement confidential; and (d) Owner understands that it is neither illegal nor a violation of the Right of Way Agreement with Grantor for Owner to enter into a right-of-way agreement, including the Agreement, with a telecommunications carrier, as defined in 47 U.S.C. § 224, such as Grantee.
3. Owner's Waiver of Confidentiality. Owner hereby waives any right it may have to keep the terms and conditions of the Agreement and/or the Right of Way Agreement confidential, whether or not such right to confidentiality is expressly set forth in the Agreement, the Right of Way Agreement or elsewhere or may have been agreed to orally, and Owner further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Grantor or Grantee, based upon or arising out of Owner's alleged right to confidentiality relating to the Agreement or the Right of Way Agreement. **Owner understands that Qwest does not agree to waive the confidentiality of the dollar amounts set forth in any Right of Way Agreement,**

and acknowledges that Owner has no right to provide copies of such Right of Way Agreements to any party unless Owner has completely deleted the dollar amounts.

4. Notice and Cure Period. Notwithstanding anything to the contrary contained in the Right of Way Agreement, Owner shall not commence any action or otherwise pursue any right or remedy under, or take any steps to terminate, the Right of Way Agreement due to a default by Grantee under the terms and provisions of the Right of Way Agreement unless written notice by Owner specifying such default is given to Grantor and Grantee. Owner agrees that Grantor shall have the right, but shall not be obligated, to cure such default within thirty (30) days after notice, or, if such default cannot reasonably be cured in such 30-day period, Grantor shall have the right to commence the cure of such default in such 30-day period and thereafter diligently pursue such cure until completed. Owner further agrees not to invoke any of its remedies, either express or implied, under the Right of Way Agreement, unless such default shall remain uncured following such notice and grace period.

5. Notices. All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.

EXECUTED as of the date first written above.

OWNER:

a _____

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss:
COUNTY OF _____)

The foregoing Consent was acknowledged before me this ____ day of
_____, 2000, by _____ as
_____ of
_____, a _____.

Witness my hand and official seal.

(SEAL)

Notary Public

My Commission Expires:

CONSENT TO DISCLOSURE

THE UNDERSIGNED, _____, a _____
("Owner"), whose address is _____, hereby consents to the
terms of the following paragraphs regarding the attached MDU Agreement (the "Agreement").

FOR TEN DOLLARS (\$10) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner agrees as follows:

1. Title to Property. Owner represents and warrants either (a) that Owner is the owner of fee title to the Property described in the Agreement attached hereto or, if no description of the Property is given in the Agreement, then (b) that Owner is the grantor, or the successor to or assignee of the grantor, of the Easement Rights, if any, under the Agreement. Owner further represents and warrants that Owner has the legal right to execute this Consent, including, without limitation, the right to waive the confidentiality of the Agreement as set forth in Section 3 of this Consent.
2. Owner's Acknowledgments. Owner expressly acknowledges that (a) this is a legal document that may affect Owner's rights and Owner was given the opportunity to have the Agreement and this Consent reviewed by Owner's attorney; and (b) Owner, by signing this Consent, waives any rights it may to keep the terms and provisions of the Agreement confidential.
3. Owner's Waiver of Confidentiality. Owner hereby waives any right it may have to keep the terms and conditions of the Agreement confidential, whether or not such right to confidentiality is expressly set forth in the Agreement or elsewhere or may have been agreed to orally, and Owner further covenants not to assert any claim or commence any action, lawsuit, or other legal proceeding against Grantor or Grantee, based upon or arising out of Owner's alleged right to confidentiality relating to the Agreement. **Owner understands that Qwest does not agree to waive the confidentiality of the dollar amounts set forth in any Agreement, and acknowledges that Owner has no right to provide copies of such Agreements to any party unless Owner has completely deleted the dollar amounts.**
4. Notices. All notices to be given pursuant to this Agreement shall be deemed delivered (a) when personally delivered, or (b) three (3) business days after being mailed postage prepaid, by United States certified mail, return receipt requested, or (c) one business day after being timely delivered to an overnight express courier service such as Federal Express which provides for the equivalent of a return receipt to the sender, to the above described addresses of the parties hereto, or to such other address as a party may request in a writing complying with the provisions of this Section.

EXECUTED as of the date first written above.

OWNER:

_____,
a _____

By: _____

Name: _____

Title: _____

STATE OF _____)

) ss:

COUNTY OF _____)

The foregoing Consent was acknowledged before me this ____ day of
_____, 2000, by _____ as
_____ of
_____, a _____.

Witness my hand and official seal.

(SEAL)

Notary Public

My Commission Expires:

EXHIBIT 1

Right of Way Agreement

(This represents the ROW agreement between the Co-Provider and the property owner)

CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of AT&T's Opposition to Qwest's Motion to Admit SGAT Changes in Docket Nos. T-01051B-99-0068 and T-00000A-97-0238, were sent via overnight delivery this 26th day of February, 2001, to:

Arizona Corporation Commission
Docket Control – Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

and that a copy of the foregoing was sent via overnight delivery this 26th day of February, 2001, to the following:

Deborah Scott
Director - Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Christopher Kempley
Arizona Corporation Commission
Legal Division
1200 West Washington Street
Phoenix, AZ 85007

Lyn Farmer
Chief Administrative Law Judge
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Maureen Scott
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Mark A. DiNunzio
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

and a true and correct copy of the foregoing was sent via United States Mail, postage prepaid, on the 26th day of February, 2001 to the following:

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